



## DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Docket No. DOT-OST-2016-0131

Privacy Act of 1974; Department of Transportation, Federal Aviation Administration, DOT/FAA854 Requests for Waivers and Authorizations Under 14 CFR Part 107 system of records notice.

**AGENCY:** Office of the Departmental Chief Information Officer, Office of the Secretary of Transportation, DOT.

**ACTION:** Notice of Privacy Act system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the United States Department of Transportation proposes to issue a Department of Transportation system of records titled, “Department of Transportation Federal Aviation Administration; DOT/FAA854 Requests for Waivers and Authorizations Under 14 CFR Part 107.” On June 28, 2016 the FAA issued a Final Rule setting forth standards for operation and certification of small unmanned aircraft systems (hereinafter, “small UAS”). RIN 2120-AJ60.

Small UAS operators may request waivers of operational rules applicable to small UAS, requirements such as the requirement to maintain visual line of sight and yield right of way to manned aircraft, as well as prohibitions on operations over people and in certain airspace. Small UAS operators who determine to seek a waiver or authorization must request such by electronically completing a form on the FAA website or by mailing a completed paper form to the FAA. The forms will contain: aircraft operator name; aircraft owner name; name of person requesting a waiver or authorization; contact information for person applying for waiver or

authorization: mailing address, telephone number, and email address of person submitting application for waiver or authorization; responses to inquiries concerning the applicant's previous and current waivers; remote pilot in command name; contact information for remote pilot in command: address and telephone number; remote pilot in command certificate number; aircraft manufacturer name and model; aircraft registration number; regulations subject to waiver or authorization; requested date and time operations will commence and conclude under waiver or authorization; requested altitude applicable to the waiver or authorization; description of proposed operations.. In addition to the entries on the completed form, the applicant may provide additional information, such as maps, illustrations, specifications, or other items the applicant would like the FAA to consider. After reviewing the information the applicant provides, the FAA will determine whether it can assure safety in the national airspace when granting the waiver; often, such grants will include provisions to which the requester must adhere, to mitigate the risk associated with the waiver.

The final rule prohibits operation of small UAS in Class B, Class C, or Class D airspace, as well as operation within the lateral boundaries of the surface area of Class E airspace designated for an airport unless the person has prior authorization from Air Traffic Control. To obtain this authorization, operators may complete and submit an electronic form available on the FAA's website.. This system will consist of records (1) relevant to waivers of certain provisions of 14 CFR part 107 and (2) airspace authorization requests.

**DATES:** Written comments should be submitted on or before *[insert specific date that reflects 30 days from the publication date in the Federal Register]* <Month Day, Year>. The Department may publish an amended Systems of Records Notice in light of any comments

received. This new system will be effective *[insert specific date that reflects 30 days from the publication date in the Federal Register]* <Month Day, Year>.

**ADDRESSES:** You may submit comments, identified by docket number DOT-OST-2016-0131 by any of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- Fax: (202) 493-2251.

*Instructions:* You must include the agency name and docket number DOT-OST-2016-0131. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Privacy Act:* Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act statement in the Federal Register published on April 11, 2000 (65 FR 19477-78), or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** For questions, please contact:

Claire W. Barrett, Departmental Chief Privacy Officer, Privacy Office, Department of Transportation, Washington, D.C. 20590; [privacy@dot.gov](mailto:privacy@dot.gov); or 202.527.3284.

**SUPPLEMENTARY INFORMATION:**

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. § 552a, the Department of Transportation (DOT)/Federal Aviation Administration (FAA) proposes to issue a DOT system of records titled, “DOT/FAA854 Requests for Waivers and Authorizations Under 14 CFR Part 107.” This SORN results from the FAA’s recent decision issue a final rule to integrate small UAS operations into the national airspace, setting forth standards for operations and certification of small UAS operations. 81 FR 42063 (June 28, 2016).

*A. Description of Records*

The FAA’s rule governing operation of small UAS permits operators to apply for certificates of waiver to allow a small UAS operation to deviate from certain provisions of 14 CFR part 107 if the Administrator finds the operator can conduct safely the proposed operation under the terms of a certificate of waiver. The rule also permits operators to request authorizations to enter controlled airspace (Class B, Class C, or Class D airspace, as well as the lateral boundaries of the surface area of Class E airspace designated for an airport). The process of the FAA issuing certificates of waiver will allow the FAA to assess case-specific information concerning a small UAS operation that takes place in a unique operating environment and consider allowing

additional operating flexibility that recognizes safety mitigations provided by the specific operating environment. Accordingly, this SORN covers documents relevant to both waivers of certain provisions of part 107 as well as airspace authorizations, as described in 14 CFR § 107.41.

### *1. Waivers*

To obtain a certificate of waiver, an applicant must submit a request containing a complete description of the proposed operation and a justification, including supporting data and documentation as necessary, to establish the proposed operation can safely be conducted under the terms of the requested certificate of waiver. As stated in the preamble describing the FAA's final rule provisions, the FAA expects the amount of data and analysis required as part of the application will be proportional to the specific relief that is requested. Similarly, the FAA anticipates that the time required for it to make a determination regarding waiver requests will vary based on the complexity of the request. For example, a request for a major deviation from part 107 for an operation that takes place in a congested metropolitan area with heavy air traffic will likely require significantly more data and analysis than a request for a minor deviation for an operation that takes place in a sparsely populated area with minimal air traffic. If a certificate of waiver is granted, that certificate may include additional conditions and limitations designed to ensure that the small UAS operation can be conducted safely.

The certificate-of-waiver process will allow the FAA to assess case-specific information concerning a small UAS operation that takes place in a unique operating environment and consider allowing additional operating flexibility that recognizes safety mitigations provided by the specific operating environment. The FAA anticipates that this process will also serve as a

bridging mechanism for new and emerging technologies; allowing the FAA to permit testing and use of those technologies, as appropriate, before the pertinent future rulemaking is complete.

## *2. Airspace Authorizations*

This SORN covers two methods by which a remote pilot in command may request FAA authorization for a small unmanned aircraft to operate in Class B, C, D, and the lateral boundaries of the surface area of Class E airspace designated for an airport. First, a remote pilot in command may seek approval from air traffic control (ATC). The second, alternative method allows a remote pilot to request a waiver from this provision in order to operate in Class B through E airspace. The appropriate ATC facility has the best understanding of local airspace, its usage, and traffic patterns and is in the best position to ascertain whether the proposed small UAS operation would pose a hazard to other users or the efficiency of the airspace, and procedures to implement to mitigate such hazards. The ATC facility has the authority to approve or deny aircraft operations based on traffic density, controller workload, communications issues, or any other type of operational issues that could potentially impact the safe and efficient flow of air traffic in that airspace. If necessary to approve a small UAS operation, ATC may require mitigations such as altitude constraints and direct communication. ATC may deny requests that pose an unacceptable risk to the national airspace system (NAS) and cannot be mitigated.

### *B. System of Records*

As described below in the Routine Uses section of this notice, all records the FAA maintains in connection with waivers (approvals and denials) may be made available to the public, except email addresses and personal telephone numbers. Such availability is compatible with the purposes of this system because this system is intended, in part, to educate small UAS operators

who seek to apply for a waiver, as operators will be able to review prior grants of waivers and the accompanying special provisions in their efforts to replicate successful waiver applications. The FAA, however, does not plan to post records relevant to airspace authorizations on its website because airspace authorizations are unique to each operation. Each airspace authorization is specific to the location and time of the planned operation; therefore, posting of airspace authorizations would not prove advantageous to prospective applicants who seek to operate in airspace listed as prohibited in 14 CFR § 107.41.

In addition, the FAA may share records with law enforcement as necessary to ensure safe operations in the NAS. To provide for safety of the NAS, the FAA may consider enforcement action against a person who violates FAA regulations; such action could involve disclosing information from this system of records, or derived from this system of records, to law enforcement. In addition, the FAA may disclose information to law enforcement as needed for purposes of accident/incident investigations. Overall, the FAA will correspond with law enforcement as needed to ensure operators do not endanger the NAS; such collaboration may entail the sharing of information in this system of records.

## II. Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the Federal Government collects, maintains, and uses personally identifiable information (PII) in a System of Records. A “System of Records” is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a System of Records notice (SORN) identifying and describing each System of Records the agency maintains, including the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such

information outside the agency, and how individuals to whom a Privacy Act record pertains can exercise their rights under the Privacy Act (e.g., to determine if the system contains information about them and to contest inaccurate information).

In accordance with 5 U.S.C. § 552a(r), DOT has provided a report of this system of records to the Office of Management and Budget and to Congress.

**SYSTEM OF RECORDS**

DOT/FAA – 854 Requests for Waivers and Authorizations Under 14 CFR Part 107

**SYSTEM NAME:**

DOT/FAA – 854 Requests for Waivers and Authorizations Under 14 CFR Part 107

**SECURITY CLASSIFICATION:** Unclassified.

**SYSTEM LOCATION:**

For waivers, the system will be located in the Commercial Operations Branch, Flight Standards Service (AFS-820), Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20024

For airspace authorizations, the system will be located in the Emerging Technologies Team (AJV-115), Air Traffic Organization, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20024.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Aircraft operators, aircraft owners, persons requesting a waiver or authorization.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Aircraft operator name; Aircraft owner name; Name of person requesting a waiver or authorization; Contact information for person applying for waiver or authorization: mailing address, telephone number, and email address of person submitting application for waiver or

authorization; Responses to inquiries concerning the applicant's previous and current waivers; Remote pilot in command name; Airmen Certification Number (in those individuals certificated under another program prior to 2013 and have not requested a change of certificate number the airmen certificate number may be the individual's Social Security Number); Contact information for remote pilot in command: address and telephone number; Remote pilot in command certificate number; Aircraft manufacturer name and model; Aircraft registration number; Regulations subject to waiver or authorization; Requested date and time operations will commence and conclude under waiver or authorization; Requested altitude applicable to the waiver or authorization; Description of proposed operations.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

- i. 49 U.S.C. 106(g), Duties and powers of Administrator
- ii. 49 U.S.C. 40101, Policy
- iii. 49 U.S.C. 40103, Sovereignty and use of airspace
- iv. 49 U.S.C. 40106, Emergency powers
- v. 49 U.S.C. 40113, Administrative
- vi. 49 U.S.C. 44701, General requirements
- vii. FAA Modernization and Reform Act of 2012, Pub. L. 112-95 ("FMRA") § 333, Special Rules for Certain Unmanned Aircraft Systems
- viii. 14 CFR part 107, subpart D, "Waivers"
- ix. 14 CFR § 107.41, "Operation in certain airspace"

**PURPOSE(S):**

The purpose of this system is to receive, evaluate, and respond to requests for authorization to operate a small UAS, pursuant to 14 C.F.R. part 107, in Class B, C, or D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport, and evaluate requests for a certificate of waiver to deviate safely from one or more small UAS operational requirements specified in part 107. The FAA also will use this system to support FAA safety programs and agency management, including safety studies and assessments. The FAA may use contact information provided with requests for waiver or authorization to provide small UAS owners and operators information about potential unsafe conditions and educate small UAS owners and operators regarding safety requirements for operation. The FAA also will use this system to maintain oversight of FAA-issued waiver or authorizations and records from this system may be used by FAA for enforcement purposes.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to other disclosures generally permitted under 5 U.S.C. § 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOT as a routine use pursuant to 5 U.S.C. § 552a(b)(3) as follows:

1. To the public, waiver and airspace authorization applications and decisions, including any history of previous, pending, existing, or denied requests for waivers and authorizations applicable to the small UAS at issue for purposes of the waiver, and special provisions applicable to the small UAS operation that is the subject of the request. Email addresses and telephone numbers will not be disclosed pursuant to this Routine Use. Airspace authorizations the FAA issues pursuant to 14 CFR § 107.41 also will not

be disclosed pursuant to this Routine Use, except to the extent that an airspace authorization is listed or summarized in the terms of a waiver.

2. To law enforcement, when necessary and relevant to a FAA enforcement activity.
3. The Department has also published general routine uses applicable to all DOT Privacy Act systems of records, including this system. These routine uses are published in the Federal Register at 75 FR 82132, December 29, 2010, and 77 FR 42796, July 20, 2012, under “Prefatory Statement of General Routine Uses” (available at <http://www.transportation.gov/privacy/privacyactnotices>).

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Individual records relevant to both waivers and airspace authorizations under 14 CFR part 107 are maintained in an electronic database system.

**RETRIEVABILITY:**

Records of applications for waivers and authorizations in the electronic database system may be retrieved by small UAS registration number, the manufacturer’s name and model, the name of the current registered owner and/or organization, the name of the remote pilot in command, the airmen certification number, the name of the applicant and/or organization that submitted the request for waiver or authorization, the special provisions (if any) to which the FAA and the applicant agreed for purposes of the waiver or authorization, and the location and altitude, class

of airspace and area of operations that is the subject of the request. Records may also be sorted by regulation section that is the subject of the request for waiver or authorization.

**SAFEGUARDS:**

Records in this system for waivers and airspace authorizations under 14 CFR part 107 are safeguarded in accordance with applicable rules and policies, including all applicable DOT automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RETENTION AND DISPOSAL:**

The FAA will retain records in this system of records, which covers both waivers and airspace authorizations under 14 CFR part 107, as permanent government records until it receives record disposition authority from the National Archives and Records Administration (NARA), pursuant to 36 CFR §§ 1225.16 and 1225.18. The FAA has requested from NARA authority to dispose of waiver and authorization records after two years following the expiration of the waiver or authorization.

**SYSTEM MANAGER(S) AND ADDRESS:**

For waivers: Manager, Commercial Operations Branch, Flight Standards Service (AFS-820), Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20024.

For airspace authorizations: Manager, UAS Tactical Operations Section, Air Traffic Organization, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20024.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification of whether this system of records contains information about them may contact the System Manager at the address provided in the section “System manager.”

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 49 CFR Part 10. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. § 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to records in this system of records should follow the same procedures described in the section “Notification Procedure,” above. **CONTESTING RECORD**

**PROCEDURES:**

Individuals seeking amendment to records in this system of records should follow the same procedures described in the section “Notification Procedure,” above. **RECORD SOURCE**

**CATEGORIES:**

Records are obtained from individuals, manufacturers of aircraft, maintenance inspectors, mechanics, and FAA officials.



**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

Claire W. Barrett

Departmental Chief Privacy Officer

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