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6712-01

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act System of Records.

AGENCY: Federal Communications Commission

ACTION: Notice of amendment to system of records; three new routine uses.

SUMMARY: The Federal Communications Commission (FCC or Commission or Agency) has amended an existing system of records, FCC/OMD-17, Freedom of Information Act (FOIA) and Privacy Act Requests, subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the Federal Register notice of the existence and character of records maintained by the agency (5 U.S.C. 552a(e)(4)). The FCC's Office of the Managing Director (OMD) will use FOIAonline, <https://foiaonline.regulations.gov/foia/action/public/home>, an online portal that permits the public to file initial Freedom of Information Act (FOIA) requests and appeals. FOIAonline also permits the public to search various fields of data (as designated by the FCC) concerning FOIA requests, appeals, and responsive records. The FCC began participating in FOIAonline in February 2015. The system has been operational since then without incident.

DATES: Written comments are due on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This action will become effective on **[INSERT DATE 40 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** unless comments are received that require a contrary determination.

ADDRESSES: Send comments to Leslie F. Smith, Privacy Manager, Information Technology (IT), Room 1-C216, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554, or to Leslie.Smith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, (202) 418-0217, or Leslie.Smith@fcc.gov, and to obtain a copy of the Narrative Statement, which includes details of the proposed alterations to this system of records.

SUPPLEMENTARY INFORMATION: The FCC previously gave notice of this system of records, FCC/OMD-17, by publication in the Federal Register on April 5, 2006 (65 FR 17234, 17261). This notice serves to update and amend FCC/OMD-17, Freedom of Information Act (FOIA) and Privacy Act Requests, as a result of an increased use of automated information technology and new program guidance.

FCC/OMD-17

SYSTEM NAME:

Freedom of Information Act (FOIA) and Privacy Act Requests.

SYSTEM LOCATION:

FOIA and Privacy Act request files are maintained at the Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554. Information related to FOIA requests and appeals is also stored in the FOIAonline database, available at <https://foiaonline.regulations.gov/foia/action/public/home>.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered by this system include, but are not limited to individuals who submit Freedom of Information Act (FOIA) and Privacy Act requests, or administrative appeals; and individuals who are the subject of FOIA and Privacy Act requests and appeals or whose personally identifiable information is contained in records covered by this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about individuals most commonly including name, home address, email address, telephone or cell phone numbers, and less frequently may include date of birth, social security number, and driver's license number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 5 U.S.C. 552a.

PURPOSE(S):

The Commission's Performance Evaluation and Records Management staff (PERM) of the Office

of Managing Director collects and maintains the information in this system through FOIAonline (<https://foiaonline.regulations.gov/foia/action/public/home>), an online portal for filing FOIA requests and appeals. PERM also maintains FOIA request files, including responses to FOIA requests and appeals, and correspondence with requesters. The records are required to permit the Commission to effectively, efficiently, and appropriately process and respond to FOIA and Privacy Act requests and administrative appeals. These records are also necessary for defending Commission action in litigation challenging FOIA and Privacy Act responses by the agency; for compiling mandatory reports and responses to inquiries from Congress, the Department of Justice (DOJ), the Office of Government Information Services (OGIS) of the National Archives and Records Administration (NARA), the Office of Management and Budget (OMB), the General Services Administration (GSA), and the Government Accountability Office (GAO). The records are also used to respond to congressional inquiries from both Congressional committees and from individual members of Congress inquiring on behalf of a constituent.

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

In addition to those 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 to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows. In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose(s) for which the records were collected:

1. Public Access – The FCC authorizes public access to FOIA requests and appeals through FOIAonline (<https://foiaonline.regulations.gov/foia/action/public/home>) to the names of FOIA requesters, dates related to the processing of the request, and a description of the records sought by the requester (excluding any personally identifiable information in the description of the records, such as telephone or cell phone numbers, home or email addresses, social security numbers), unless the requester asks for the redaction of any personally

identifiable information (PII). This information may also be used to create a publicly available log of requests.

2. Determinations on Access – To assist the FCC in making an access determination, a record from the system may be shared with (a) the person or entity that originally submitted the record to the agency or is the subject of the record or information; or (b) another Federal entity.
3. Adjudication and Litigation – To the Department of Justice (DOJ), or other administrative body before which the FCC is authorized to appear, when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where DOJ or the FCC has agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, and the use of such records by DOJ or the FCC is deemed by the FCC to be relevant and necessary to the litigation.
4. Law Enforcement and Investigation – To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the FCC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.
5. Congressional Inquiries – To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.
6. Government-wide Program Management and Oversight – To the National Archives and Records Administration (NARA) for use in its records management inspections; to the Government Accountability Office (GAO) for oversight purposes; to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

7. National Archives and Records Administration – To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS’ offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.
8. Breach Notification – To appropriate agencies, entities, and persons when (a) the Commission suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Commission or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission’s efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm; and
9. For Non-Federal Personnel – To disclose information to contractors performing or working on a contract for the Federal Government.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

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

STORAGE:

Information in this system includes both paper and electronic records. The paper records, documents, and files are maintained in file cabinets that are located in the OMD/PERM FOIA Public Liaison’s office suite and the Office of General Counsel, and in the bureaus and offices of

the FCC staff who provide the responses to FOIA/Privacy Act requests. The electronic records, files, and data are stored in FOIAonline and in the FCC's computer network.

RETRIEVABILITY:

Records in this system of records are most often retrieved by the control number for the request, but may be retrieved by an individual's name, organization, or request description. Records concerning initial requests under the FOIA and the Privacy Act are maintained by the FOIA Public Liaison in FOIAonline. Inquiries regarding these records should be addressed to the FOIA Public Liaison, Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554.

Records concerning administrative appeals for access requests under the FOIA and records concerning administrative appeals for access requests and accountings of disclosure requests under the Privacy Act are maintained by the FCC's Office of General Counsel and in FOIAonline. Inquiries regarding these records should be addressed to the General Counsel, Office of General Counsel, Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554 or to FOIA-Appeal@fcc.gov.

SAFEGUARDS:

Access to the file cabinets containing paper records in this system are maintained in the FOIA Public Liaison's office and in the bureau or office suites accessible through card-coded main doors. The FOIA file cabinets in the office of the FOIA Public Liaison are locked at the end of the business day. Access to these FOIA files is restricted to authorized supervisors and staff who are responsible for responding to the FOIA requests or appeals.

The electronic records, files, and data are housed in FOIAonline and in the FCC's computer network. Access to the electronic files is restricted to staff in the bureaus and offices who are responsible for responding to FOIA requests, and to the Information Technology Center (ITC) staff and contractors who maintain the FCC's computer network. Other FCC employees and contractors may be granted access on a "need-to-know" basis. The FCC's computer network

databases are protected by the FCC's IT privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal IT privacy standards, including those required by the National Institute of Standards and Technology (NIST) and the Federal Information Security Management Act (FISMA).

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration's General Records Schedule 4.2, Items 020, 040, 050, 070, and 090.

SYSTEM MANAGER(S) AND ADDRESS:

FOIA Public Liaison, Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554.

FOIAonline is managed by the U.S. Environmental Protection Agency, Office of Information Collection, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information about them may do so by writing to FOIA Public Liaison, Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554, email: FOIA@fcc.gov. Individuals must furnish reasonable identification by showing any two of the following: social security card; driver's license; employee identification card; Medicare card; birth certificate; bank credit card; or other positive means of identification, or by signing an identity statement stipulating that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000.

Individuals requesting access to records concerning themselves must also comply with the FCC's Privacy Act regulations regarding verification of identity and access to records (5 CFR Part 0, Subpart E).

RECORD ACCESS PROCEDURES:

Access to information about FOIA requests and appeals is available through FOIAonline,

<https://foiaonline.regulations.gov/foia/action/public/home>. Individuals wishing additional information about records in this system should follow the Notification Procedure above.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest information pertaining to him or her in the system of records should follow the Notification Procedure above.

RECORD SOURCE CATEGORIES:

The sources for the information in this system of records are the individuals making requests under FOIA or the Privacy Act; the individuals who are the subjects of FOIA or Privacy Act requests; the attorneys or representatives of the requesters and the subjects of the requests; communication between FCC organizational units (bureaus and offices), and the investigative materials and related documentation and decisions involved in appeals, amendments, and litigation concerning FOIA responses, etc.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FEDERAL COMMUNICATIONS COMMISSION.

Gloria J. Miles,
Federal Register Liaison Officer,
Office of the Secretary.

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