



FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 179693]

Privacy Act of 1974; System of Records.

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) proposes to modify an existing system of records, FCC/WTB-6, Archival Radio Operator Records, subject to the Privacy Act of 1974, 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. The Commission uses this system to administer the Commission's radio operator program including applications and determinations of license applicant qualifications, and to refer possible violations of law to the appropriate office within the Commission and to the appropriate agency outside the Commission. This modification makes various necessary changes and updates, including formatting changes required by the Office of Management and Budget (OMB) Circular A-108 since its previous publication, the addition of new routine uses, as well as the revision and deletion of existing routine uses.

DATES: This modified system of records will become effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Written comments on the routine uses are due by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The routine uses in this action will become effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** unless comments are received that require a contrary determination.

ADDRESSES: Send comments to Katherine C. Clark, Federal Communications Commission (FCC), 45 L Street, NE, Washington, D.C. 20554, or to privacy@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Katherine C. Clark, (202) 418-1773, or privacy@fcc.gov (and to obtain a copy of the Narrative Statement and the Supplementary Document, which includes details of the modifications to this system of records).

SUPPLEMENTARY INFORMATION: This notice serves to update and modify FCC/WTB-6, as a result of various necessary changes and updates. The substantive changes and modifications to the previously published version of the FCC/WTB-6 system of records include:

1. Updating the language in the Security Classification to follow OMB guidance.
2. Updating the language in the Purposes section to be consistent with the language and phrasing currently used in the FCC's SORNs.
3. Modifying the language in the Categories of Individuals and Categories of Records to be consistent with the language and phrasing currently used in the FCC's SORNs.
4. Deleting two routine uses (listed by former routine use number) (2) Employment, Clearances, Licensing, Contract, Grant, or other Benefits Decisions by the agency; and (3) Employment, Clearances, Licensing, Contract, Grant, or other Benefits Decisions by other than the agency—neither of which reflects how the FCC has used or disclosed records from this system.
5. Updating and/or revising language in the following routine uses (listed by current routine use number): (1) Public Access; (2) Litigation and Adjudication which is now two separate routine uses— (2) Litigation and (3) Adjudication; (5) Law Enforcement and Investigation; (6) Congressional Inquiries; and (7) Government-wide Program Management and Oversight.
6. Adding the following new routine uses (listed by current routine use number): (4) FCC Enforcement Actions; (8) Breach Notification, the addition of which is as required by OMB Memorandum No. M-17-12; (11) Assistance to Federal Agencies and Entities Related to

Breaches, the addition of which is required by OMB Memorandum No. M-17-12; and (10) Non-Federal Personnel to allow contractors, vendors, grantees, or volunteers performing or working on a contract, grant, or cooperative agreement for the Federal Government to have access to needed information.

7. Updating the SORN to include the records schedule N1-173-94-002, "Wireless Telecommunications Bureau - Licensing Division Records."

The system of records is also updated to reflect various administrative changes related to the system managers and system addresses; policy and practices for storage and retrieval of the information; administrative, technical, and physical safeguards; and updated notification, records access, and contesting records procedures.

SYSTEM NAME AND NUMBER: FCC/WTB-6, Archival Radio Operator Records.

SECURITY CLASSIFICATION: No information in the system is classified.

SYSTEM LOCATION: Wireless Telecommunications Bureau, FCC, 1270 Fairfield Road, Gettysburg, Pennsylvania 17325.

SYSTEM MANAGER(S): Chief, Technologies Systems and Innovation Division, Wireless Telecommunications Bureau, FCC, 1270 Fairfield Road, Gettysburg, PA 17325.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 47 U.S.C. 303(l), 303(m), and 318.

PURPOSE(S) OF THE SYSTEM: WTB uses the information in this information system for purposes that include, but are not limited to:

1. To administer the Commission's radio operator program including applications and determinations of license applicant qualifications.
2. To enforce the Communications Act, as amended, FCC regulations, other FCC requirements or orders, other statutes and regulations subject to the FCC's jurisdiction,

and/or international treaties (Rules and Regulations), and refer possible violations to the FCC's Enforcement Bureau, OGC, and/or to the appropriate agency charged with the responsibility of investigating or prosecuting such violation(s).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: The categories of individuals whose records are maintained in this system include, but are not limited to, individuals who applied for and/or received a radiotelephone (wireless) operator license or permit prior to the implementation of the Federal Communications Commission's Universal Licensing System (ULS) in 2001.

CATEGORIES OF RECORDS IN THE SYSTEM: The records in this system include, but are not limited to:

1. Applications for radiotelephone (wireless) operator's license or permit prior to the implementation of the FCC's Universal Licensing System in 2001; and
2. Documents associated with these applications.

RECORD SOURCE CATEGORIES: Under the authority granted to heads of agencies by 5 U.S.C. 552a(k), the FCC has determined (47 CFR § 0.561) that this system of records is exempt from disclosing its record sources for this system of records.

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

Information about individuals in this system of records may routinely be disclosed under the following conditions:

1. Public Access—the licensee records will routinely be made publicly available; ITIN Numbers and material which is afforded confidential treatment pursuant to a request made under 47 CFR 0.459 will not be available for public inspection. Names and other information about individuals subject to investigations or similar actions may be disclosed to the public in Commission releases, including Notices of Apparent Liability, Forfeiture Orders, Consent Agreements, Notice

Letters, or all other actions released by a Bureau or the Commission as part of their duties to enforce FCC Rules and Regulations.

2. Litigation—To disclose records to the Department of Justice (DOJ) 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 the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the Department of Justice is for a purpose that is compatible with the purpose for which the FCC collected the records.

3. Adjudication—To disclose records in a proceeding before a court or adjudicative body, when: (a) the FCC or any component thereof; or (b) any employee of the FCC in his or her official capacity; or (c) any employee of the FCC in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

4. FCC Enforcement Actions—When a record in this system involves an informal complaint filed alleging a violation of FCC Rules and Regulations by an applicant, licensee, certified or regulated entity, or an unlicensed person or entity, the complaint may be provided to the alleged violator for a response. Where a complainant in filing his or her complaint explicitly requests confidentiality of his or her name from public disclosure, the Commission will endeavor to protect such information from public disclosure. Complaints that contain requests for confidentiality may be dismissed if the Commission determines that the request impedes the Commission's ability to investigate and/or resolve the complaint.

5. Law Enforcement and Investigation—When the FCC investigates any violation or potential violation of a civil or criminal law, regulation, policy, executed consent decree, order, or any other type of compulsory obligation, to disclose pertinent information as it deems necessary with the target of an investigation, as well as with appropriate Federal, State, local, Tribal, international, or multinational agencies, or a component of such an agency, responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order.

6. 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 written request of that individual.

7. Government-wide Program Management and Oversight—To DOJ to obtain that Department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to OMB to obtain that office's advice regarding obligations under the Privacy Act.

8. Breach Notification—To appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; 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 breach or to prevent, minimize, or remedy such harm.

9. Assistance to Federal Agencies and Entities Related to Breaches—To another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals,

the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

10. Non-Federal Personnel—To disclose information to non-Federal personnel, including contractors, other vendors (*e.g.*, identity verification services), grantees, and volunteers who have been engaged to assist the FCC in the performance of a contract, service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: These are microfiche files that are maintained in the FCC’s Gettysburg Office, 1270 Fairfield Road, Gettysburg, PA 17325.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: All records are retrievable by applicant name and the issue date of the FCC License.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: The information in this system is maintained and disposed of in accordance with the National Archives and Records Administration (NARA) Records Schedule No. N1-173-94-002, “Wireless Telecommunications Bureau - Licensing Division Records.”

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: The microfiche files are securely maintained in the FCC’s Gettysburg office. Access to the microfiche files is restricted to authorized employees and contractors maintaining these files; other employees and contractors may be granted access on a need-to-know basis. The microfiche are stored in locked file cabinets that are secured at the close of the business day. The security protocols and features are designed to meet all Federal privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), OMB, and the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES: Under the authority granted to heads of agencies by 5 U.S.C. 552a(k), the FCC has determined (47 CFR 0.561) that this system of records is exempt from disclosing its record access procedures for this system of records.

CONTESTING RECORD PROCEDURES: Under the authority granted to heads of agencies by 5 U.S.C. 552a(k), the FCC has determined (47 CFR 0.561) that this system of records is exempt from disclosing its contesting record procedures for this system of records.

NOTIFICATION PROCEDURES: Under the authority granted to heads of agencies by 5 U.S.C. 552a(k), the FCC has determined (47 CFR § 0.561) that this system of records is exempt from disclosing its notification procedure for this system of records.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: This system of records is exempt from sections (c)(3), (d), (e)(4)(G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552a, and from 47 CFR 0.554 through 0.557 of the Commission's rules. These provisions concern the notification, record access, and contesting procedures described above, and also the publication of record sources. The system is exempt from these provisions because it contains investigative material compiled for law enforcement purposes as defined in Section (k)(2) of the Privacy Act.

HISTORY: 71 FR 17272 (April 5, 2006).

Federal Communications Commission.

Marlene Dortch,

Secretary.