

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Amendment of Sections 0.453(d)(4) and 0.457(f) of) WT Docket No. 15-81
the Commission's Rules Concerning Electronically)
Stored Application and Licensing Data)

NOTICE OF PROPOSED RULEMAKING

Adopted: March 31, 2015

Released: March 31, 2015

Comment Date: (60 days after publication in the Federal Register).

Reply Comment Date: (90 days after publication in the Federal Register).

By the Commission:

I. INTRODUCTION

1. In this *Notice of Proposed Rulemaking (NPRM)*, we propose to specify that historical amateur radio licensee address information will not be routinely available for public inspection. To implement this change, we propose to remove from public view in the Universal Licensing System (ULS) amateur radio licensee address information that is not associated with a current license or pending application and amend Sections 0.453(d)(4) and 0.457(f) of the Commission's Rules accordingly.¹ We believe that these steps will enhance amateur radio operators' privacy without undermining the public interest in knowing who is authorized to operate on amateur spectrum. We also seek comment on whether this approach should be extended to individual licensees in any other Wireless Radio Services, such as the General Mobile Radio Service, commercial radio operator licensees, and individuals who hold ship station and/or aircraft station licenses.

II. BACKGROUND

2. ULS is the consolidated database, application filing system, and processing system for all Wireless Radio Services, including the amateur radio service.² Section 0.453(d)(4) provides that application and licensing data for all authorizations in the Wireless Radio Services is available for public inspection via ULS,³ which includes not only current authorizations and pending applications, but also expired, canceled, or terminated licenses; archived versions of active licenses (*i.e.*, licenses that have been superseded because they were renewed, modified, or administratively updated); and applications that have

¹ 47 C.F.R. §§ 0.453(d)(4), 0.457(f).

² 47 C.F.R. § 1.907 (providing a definition of ULS and Wireless Radio Services). The Wireless Radio Services are all radio services authorized in Parts 13, 20, 22, 24, 27, 74, 80, 87, 90, 95, 97, and 101 of the Commission's Rules. *Id.*; see also Wireless Telecommunications Bureau Announces Enhancements to the Commission's Universal Licensing System and Antenna Structure Registration System for Providing Access to Official Electronic Authorizations and Seeks Comment on Final Procedures, *Public Notice*, WT Docket No. 14-161, 29 FCC Rcd 12019 (WTB 2014).

³ See 47 C.F.R. § 0.453(d)(4). Section 0.453(d) was updated in 2008 to reflect increased functionality of ULS. Amendment of Part 0 of the Commission's Rules Regarding Public Information, the Inspection of Records, and Implementing the Freedom of Information Act, *Order*, 24 FCC Rcd 6904 (2008).

been processed.⁴ Information available on ULS includes a licensee's name and address, and technical information about the authorization requested or granted.

3. The amateur radio service presents an opportunity for individuals to self-train, communicate with other amateur radio licensees, and carry out technical investigations solely with a personal aim and without pecuniary interest.⁵ Each amateur service license grant must include a mailing address in an area where the amateur service is regulated by the FCC, and where the licensee can receive mail delivery by the United States Postal Service.⁶ Among other things, this requirement enables amateur licensees to contact each other for legitimate purposes such as resolving interference disputes.⁷ We believe that publicly available licensee address information facilitates the amateur radio community's self-regulation and maintains the distinction between the amateur service and other radio services.⁸

4. In recent years, the Commission has received occasional requests from amateur licensees to remove their address information from public view in ULS. Many times these requests are made after a license has been granted and the licensee realizes that his or her address is now available to the public. Generally these requests are based on a concern for personal safety, the desire of a licensee to protect his or her privacy or that of family members, or other concerns including potential identity theft. These requests are not granted, because Section 0.453(d)(4) requires that the information be available for public inspection in ULS.

5. The rules do not require an amateur licensee to provide his or her home address. Those who are concerned about their residential address appearing in ULS may use, among other alternatives, a post office box, a business address, the address of another property the licensee owns, or the address of a friend or relative as their mailing address.⁹ For licensees whose residential address already appears in ULS, however, this offers only a partial solution, because replacing the address on a current license does not remove the old address information from archived licenses and processed applications, and it remains publicly viewable even if the license expires or is canceled or otherwise terminated.

III. DISCUSSION

6. We propose to specify that historical amateur radio licensee address information will not be routinely available for public inspection.¹⁰ To implement this change, we propose to remove from public view in ULS amateur radio licensee address information that is not associated with a current license or pending application and amend Sections 0.453(d)(4) and 0.457(f) of the Commission's Rules

⁴ See The Federal Communications Commission Announces Enhancements to the Universal Licensing System (ULS) License Archive, *Public Notice*, 22 FCC Rcd 9865 (WTB 2007); Wireless Telecommunications Bureau Announces Redesign of Universal Licensing System and Antenna Structure Registration Websites, *Public Notice*, 16 FCC Rcd 17181 (WTB 2001).

⁵ See 47 C.F.R. § 97.3(a)(4).

⁶ 47 C.F.R. § 97.23; see also 47 C.F.R. § 1.5(a) (requiring all licensees to furnish an address to be used by the Commission for directing correspondence to the licensee).

⁷ See, e.g., William A. Bentley, *Letter*, 24 FCC Rcd 4841, 4841 (WTB MD 2009) (*Bentley*).

⁸ See Amendment of Part 97 of the Commission's Rules to Relax Restrictions on the Scope of Permissible Communications in the Amateur Service, *Notice of Proposed Rule Making*, PR Docket No. 92-136, 7 FCC Rcd 4231, 4232 ¶ 8 (1992).

⁹ *Bentley*, 24 FCC Rcd at 4841.

¹⁰ Section 0.451 of our rules governing disclosure of information distinguishes between records that are "routinely available" for public inspection and those that are not. 47 C.F.R. § 0.451(a), (b). Section 0.451 explains that records routinely available for public inspection are listed in Sections 0.453 and 0.455 of the Commission's rules. Section 0.453(d) lists Wireless Telecommunications Bureau records routinely available for public inspection. Section 0.457 lists records that are not routinely available for public inspection.

accordingly.¹¹ While we recognize the importance of public access to current licensee and applicant information, we question whether the public interest is served by making amateur licensees' historical address information publicly available. Limiting ULS to showing the mailing address associated with current amateur licenses and pending applications would allow individuals to ensure that only the address they currently want to be displayed publicly would be available to the public. Licensees could replace the address currently available to the public with a different address, with the prior address no longer being publicly viewable. We seek comment on our tentative conclusion that historical amateur address information does not need to be made available in ULS and can be removed from public view without undermining the public's right to be informed about who is licensed or seeking to be licensed to use the public airwaves. We note that this information will remain available to the Commission. We seek comment on these proposals.

7. We also seek comment on whether other information – including current address information – should be removed from public view in ULS. As noted above, we foresee situations in which amateur licensees may have a legitimate need to contact other licensees by mail. We also note that the Commission has long held that information such as a licensee's name and address should be publicly available.¹² We seek comment, however, on whether in light of increased concerns about personal privacy and safety, those policies should be revised and we should withhold from public view any other information in addition to historical address information, including the licensee's current full address or partial address (*e.g.*, the street name and number but not city and state). Commenters should address, for example, whether potential licensees who would otherwise participate in the amateur service are deterred by privacy concerns. We seek comment on whether licensees have other legitimate reasons for wanting to keep some information from public view. Commenters should also address whether, instead of presumptively withholding any particular information from public view, we should instead afford licensees a means to decide whether that information will be viewable. We also seek comment on, if we withhold from public view any current address information, how the goal of enabling licensees to contact each other for legitimate purposes can be achieved, or whether privacy concerns should take precedence.

8. The amateur radio service is unique in that licenses can be issued only to individuals¹³ and the service cannot be used for commercial purposes.¹⁴ The argument that licensees should be able to decide what information is available to the public in ULS is thus strongest with respect to the amateur service, for privacy interests might be heightened when licensees and applicants are individuals seeking authorization for non-commercial communications. In contrast, Part 13 commercial radio operator licenses and Part 95 General Mobile Radio Service (GMRS) licenses also are issued only to individuals,¹⁵ but those services can be used for personal or business purposes;¹⁶ and Part 80 ship station licenses and Part 87 aircraft station licenses also are issued to individuals and non-individuals, for private and commercial vessels and aircraft. We seek comment on whether any information regarding individual

¹¹ 47 C.F.R. §§ 0.453(d)(4), 0.457(f).

¹² See *Kannapolis Television Company WCCB-TV, Inc., Memorandum Opinion and Order*, 80 F.C.C. 2d 307, 313 ¶ 18 (1980) (licensee's name, address, and station call letters are public information) (citing *Better Cable TV, Memorandum Opinion and Order*, 65 F.C.C. 2d 308, 309 ¶ 5 (1977)); see also Joel Harding, *Memorandum Opinion and Order*, 23 FCC Rcd 4214, 4215 ¶ 4 (2008) (concluding that an amateur licensee's address should not have been redacted when a copy of the license was produced pursuant to a prisoner's Freedom of Information Act request).

¹³ Even amateur club and military recreation station licenses are issued only to an individual who is the license trustee or custodian, respectively. See 47 C.F.R. § 97.5(b)(2), (3).

¹⁴ See 47 C.F.R. § 97.113(a).

¹⁵ See 47 C.F.R. §§ 13.9, 95.5.

¹⁶ A commercial radio operator license is required to operate certain ship, aircraft, and ground stations, see 47 C.F.R. §§ 80.159, 87.89, and to repair and maintain maritime and aviation radio stations, see 47 C.F.R. §§ 80.167, 80.169, 87.73. GMRS can be used for the licensee's personal or business activities. See 47 C.F.R. § 95.181(a).

licensees in any of these or other Wireless Radio Services also should be removed from public view in ULS, or whether the Commission's longstanding policy of making licensee name and address information available to the public should continue to apply to those services. In responding to any of the proposals in this *Notice*, for each category of information sought to be removed from public view, commenters should provide any applicable statutory basis for removing the information from public view and the underlying policy considerations affecting the determination to withhold or disclose such information.

9. Finally, we propose minor editorial changes to Section 0.453(d) to address issues that have come to our attention since we last reviewed and amended this rule. The proposed revision to Section 0.453(d)(4) includes correcting the name of a service currently included in that section and explains that information filed manually is entered into ULS by Commission staff.

III. CONCLUSION

10. In summary, we believe that the public interest would be served by revising our rules to remove from public view via ULS amateur radio service licensee address information that is not associated with current licenses and pending applications. We also believe that this proposed rule change would continue to allow individuals and entities that desire to contact amateur radio service licensees to do so in a timely and efficient manner. We therefore seek comment on the proposed rule change, and on whether the proposed rule change should be extended to any other information or other Wireless Radio Services.

IV. PROCEDURAL MATTERS

11. *Initial Regulatory Flexibility Certification.* The Regulatory Flexibility Act (RFA)¹⁷ requires an initial regulatory flexibility analysis to be prepared for notice and comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”¹⁸ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹⁹ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.²⁰ 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 Small Business Administration (SBA).²¹

12. In this *NPRM*, we propose to amend the Commission's inspection of records rules to provide that only amateur radio licensee address information connected with current licenses and pending applications is routinely available for public inspection in ULS or in paper files. Because “small entities,” as defined in the RFA, do not include a “person” as the term is used in this proceeding or an individual, the proposed rules do not apply to “small entities.” Rather, they apply exclusively to individuals who are licensees of certain stations or who hold certain Commission authorizations. Therefore, we certify that the proposals in this *NPRM*, if adopted, will not have a significant economic impact on a substantial number

¹⁷ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

¹⁸ See 5 U.S.C. § 605(b).

¹⁹ See 5 U.S.C. § 601(6).

²⁰ See 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

²¹ See 15 U.S.C. § 632.

of small entities. The Commission will send a copy of the *NPRM*, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.²² This initial certification will also be published in the Federal Register.²³

13. *Paperwork Reduction Analysis.* This *NPRM* does not contain modified information collection requirements. The rule change, if adopted, would change only the information available to the public in a Commission database.

14. *Ex Parte Presentations.* The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.²⁴ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

15. *Alternative formats.* To request materials in alternative formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to <FCC504@fcc.gov> or call the Consumer and Government Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This *NPRM and Order* also may be downloaded from the Commission’s web site at <<http://www.fcc.gov/http://www.fcc.gov/>>.

16. *Comment Dates.* Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

²² See 5 U.S.C. § 605(b).

²³ See *id.*

²⁴ 47 C.F.R. §§ 1.1200 *et seq.*

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

17. For further information, contact William T. Cross, Mobility Division, Wireless Telecommunications Bureau, by telephone at (202) 418-0620, or e-mail at William.Cross@fcc.gov.

V. ORDERING CLAUSES

18. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 303(r), and 403 of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 303(r), and 403, that this *Notice of Proposed Rulemaking* is HEREBY ADOPTED.

19. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX
Proposed Rules

Chapter 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Part 0 – Commission Organization

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

AUTHORITY: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.453 is amended by revising paragraphs (d) introductory paragraph and (d)(4) to read as follows:

§ 0.453 Public reference rooms.

* * * * *

(d) *Wireless Telecommunications Services and Auction* related data as follows, except to the extent they are excluded from routine public inspection under another section of this chapter:

* * *

(4) Electronically stored application and licensing data (including data filed manually and entered into ULS by Commission staff) for commercial radio operators and for all authorizations in the Wireless Radio Services are available for public inspection via the Commission's Web site, <http://wireless.fcc.gov/uls>. Wireless Radio services include Commercial and Private Mobile Radio, Common Carrier and Private Operational Fixed point-to-point Microwave, Local Television Transmission Service (LTTS), Digital Electronic Message Service (DEMS), Aviation Ground and Marine Coast applications; and

* * * * *

3. Section 0.457 is amended by revising paragraph (f) to read as follows:

§ 0.457 Records not routinely available for public inspection.

* * * * *

(f) *Personnel, medical and other files whose disclosure would constitute a clearly unwarranted invasion of personal privacy, 5 U.S.C. 552(b)(6)*. (1) Under E.O. 10561, the Commission maintains an Official Personnel Folder for each of its employees. Such folders are under the jurisdiction and control, and are a part of the records, of the U.S. Office of Personnel Management. Except as provided in the rules of the Office of Personnel Management (5 CFR 293.311), such folders will not be made available for public inspection by the Commission. In addition, other records of the Commission containing private, personal or financial information concerning particular employees and Commission contractors will be withheld from public inspection.

(2) With respect to the Amateur Radio Service as that term is defined in Section 97.3(a), address information on expired, canceled, or terminated licenses; archived versions of active licenses; and processed applications will not be made available for public inspection by the Commission. For such licensees, disclosure of an individual's historical address information is considered clearly unwarranted invasion of personal privacy.

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