

maintenance, and purchase of services to provide information.

Approved: November 28, 2001.

George Freeland,

IRS Reports Clearance Officer.

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DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of establishment of new system of records.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records entitled "Gulf War Registry—VA" (93VA131).

DATES: Comments on the establishment of this system of records must be received no later than January 10, 2002. If no public comment is received, the new system will become effective January 10, 2002.

ADDRESSES: Written comments concerning the proposed new system of records may be submitted to the Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Act Officer (193B3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (727) 320-1839.

SUPPLEMENTARY INFORMATION:

I. Description of the Proposed Systems of Records

The Gulf War Registry (GWR), located at the Austin Automation Center (AAC), Austin, Texas, is an automated integrated system. The registry contains demographic and medical data of registry examinations from August 2, 1990, until such time as Congress by law ends the Gulf War, for veterans serving in the Southwest Asia theatre of operations during the Gulf War who may have been exposed to a toxic

substance or environmental hazard. There is also registry data on veteran's spouse or children suffering from an illness or disorder (including birth defects, miscarriages, or stillbirth) which cannot be disassociated from the veteran's service in the Southwest Asia theatre of operations.

These data are entered manually on code sheets by VA facility staff or, in the case of veterans' spouses and children, by non-VA physicians. Hard copies of these code sheets then are sent to the AAC for entry into the GWR data set. The principal identifiers in these GWR records are the Social Security Number and veteran's name. The GWR system of records located at VA Central Office, Washington, DC, is an optical disk system containing images of paper records, i.e., GW code sheets. Once these paper records are scanned on optical disks, they are disposed of in accordance with RCS 10-1.

The purpose of this GWR system of records is to provide information about veterans who have had a GWR examination at a VA facility, and their spouses and/or children who have had examinations by non-VA physicians. The records are used to assist in generating hypotheses for research studies; to enable management to track patient demographics; to report birth defects among veterans' children; to assist in planning the delivery of health care services, including the associated costs; and, to possibly be used in the adjudication of claims perhaps related to exposure to a toxic substance or environmental hazard.

II. Proposed Routine Use Disclosures of Data in the System

We are proposing to establish the following routine use disclosures of information to be maintained in the system:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of, and at the written request of, that individual.

Individuals sometimes request the help of a member of Congress in resolving some issues relating to a matter before VA. The member of Congress then writes VA, and VA must be able to give sufficient information to be responsive to the inquiry.

2. The disclosure of records covered by this system, as deemed necessary and proper, may be made to named individuals serving as accredited service organization representatives, and other individuals named, as approved agents or attorneys, for a documented purpose

and period of time, to aid beneficiaries in the preparation and presentation of their cases, during verification and/or due process procedures and in the presentation and prosecution of claims under laws administered by VA.

3. A record containing the name(s) and address(es) of present or former members of the armed services and/or their dependents may be released from this system of records under certain circumstances:

a. To any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and

b. To any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name(s) or address(es) be provided for a purpose authorized by law; provided, further, that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 3301(f).

VA must be able to comply with the requirements of agencies charged with enforcing the law who are conducting investigations. VA must also be able to provide information to State or local agencies charged with protecting the public health as set forth in State law.

4. Disclosure may be made to the National Archives and Record Administration (NARA) in records management inspections conducted under authority of Title 44 United States Code.

NARA is responsible for archiving old records no longer actively used, but which may be appropriate for preservation; they are responsible, in general, for the physical maintenance of the Federal government's records. VA must be able to turn records over to these agencies in order to determine the proper disposition of such records.

5. Disclosure of information, excluding name and address (unless name and address is furnished by the requestor), may be made for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Under Secretary for Health.

VA participates in various research programs and activities. VA must be able to disclose information for research purposes approved by the Under Secretary for Health.

6. In order to conduct Federal research necessary to accomplish a

statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(es) of present or former personnel or the Armed Services and/or their dependents may be disclosed

a. To a Federal department or agency or

b. Directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, VA may impose applicable conditions on the department, agency, and/or contractor to ensure the appropriateness of the disclosure to the contractor.

VA must be able to disclose information for research purposes needed to accomplish a statutory purpose of a Federal agency. VA occasionally contracts out certain of its functions when this would contribute to effective and efficient operations. VA must be able to give a contractor whatever information is necessary for the contractor to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the contract.

7. In the event that a record maintained by VA to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, information may be disclosed at VA's own initiative to the appropriate agency whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto. However, names and addresses of veterans and their dependents will be released only to Federal entities.

8. For program review purposes and the seeking of accreditation and/or certification, disclosure may be made to survey teams of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with whom VA has a contract or agreement to conduct such reviews, but only to the extent that the information is necessary and relevant to the review.

VA health care facilities undergo certification and accreditation by several national accreditation agencies or boards to comply with regulations and good medical practices. VA must be

able to disclose information for program review purposes and the seeking of accreditation and/or certification of health care facilities and programs.

9. Records from this system of records may be disclosed to the Department of Justice (DOJ), or in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear, when: the agency, or any component thereof or any employee of the agency in his or her official capacity where the DOJ or the agency has agreed to represent the employee; or the U.S., when the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation and has an interest in such litigation, and the use of such records by the DOJ or the agency is deemed by the agency to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which the records were collected.

Whenever VA is involved in litigation, or occasionally when another party is involved in litigation and VA policies or operations could be affected by the outcome of the litigation, VA would be able to disclose information to the court or parties involved. A determination would be made in each instance that, under the circumstances involved, the purpose served by the use of the information in the particular litigation is compatible with a purpose for which VA collects the information.

10. Relevant information may be disclosed to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practical for the purposes of laws administered by VA, in order for the contractor to perform the services of the contract or agreement.

VA occasionally contracts out certain of its functions when this would contribute to effective and efficient operations. VA must be able to give a contractor whatever information is necessary for the contractor to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the contract.

III. Compatibility of the Proposed Routine Uses

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which we collected the information. In all of the routine use

disclosures described above, the recipient of the information will use the information in connection with a matter relating to one of VA's programs, will use the information to provide a benefit to VA, or disclosure is required by law.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: December 4, 2001.

Anthony J. Principi,
Secretary of Veterans Affairs.

93VA131

SYSTEM NAME:

Gulf War Registry-VA.

SYSTEM LOCATION:

Character-based data from Gulf War Registry Code Sheets are maintained in a registry dataset at the Austin Automation Center (AAC), 1615 Woodward Street, Austin, Texas 78772. Since the dataset at the ACC is not all-inclusive, i.e., narratives, signatures, noted on the code sheets are not entered into this system, images of the code sheets are maintained at the Department of Veterans Affairs (VA), Environmental Agents Service (131), 810 Vermont Avenue, NW., Washington, DC 20420. These are electronic images of paper records, i.e., code sheets and questionnaires that are stored on optical disks.

CATEGORIES OF INDIVIDUALS COVERED BY THIS SYSTEM:

Veterans who may have been exposed to toxic substances or environmental hazard while serving in the Southwest theatre of operations during the Gulf War from August 2, 1990, until such time as Congress by law ends the Gulf War, and have had a Gulf War Registry examination at a VA medical facility. Also, a spouse or child suffering from an illness or disorder (including birth defects, miscarriages, or stillbirth), which cannot be disassociated from the veteran's service in the Southwest Asia theatre of operations and who has had a Gulf War Registry examination performed by a non-VA physician.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records consist of: Code sheet records recording VA facility code identifier where veteran was examined or treated; veteran's name; address, social security number; date of birth; race/ethnicity; marital status; sex;

branch of service; periods of service; hospital status, ie., inpatient, outpatient; areas of service in the Gulf War theatre of operations; list of military units where veteran served; military occupation specialty; names of units in which veteran served; veteran's reported exposure to environmental factors; any traumatic experiences while in the Persian Gulf; veteran's self-assessment of health; veteran's functional impairment; report of birth defects and infant death(s) among veteran's children and/or problems with pregnancy and infertility; date of registry examination; veteran's complaints/symptoms; consultations; diagnoses; disposition (hospitalized, referred for outpatient treatment, etc.); whether veteran had an unexplained illness and had further tests and consultations and diagnoses as part of Phase II, Uniform Case Assessment Examination; and name and signature of examiner/physician coordinator, when provided. Similar responses for spouse and children of Gulf War veterans examined by non-VA physicians are contained in the records. Another category of data entries is obtained from depleted uranium (DU) questionnaires, a supplement to the Gulf War code sheet. The data entries may contain the facility identifier where the information was completed; demographic information (name and social security number); daytime and evening phone numbers; date of questionnaire completion; date of arrival in and departure from the Persian Gulf theatre of operations; source of referral to VA medical center for evaluation; where veteran served i.e. Iraq, Kuwait, Saudi Arabia, the neutral zone (between Iraq and Saudi Arabia), Bahrain, Qatar, The United Arab Emirates, Oman, Gulf of Aden, Gulf of Oman and the Waters of the Persian Gulf, Arabian Sea and Red Sea; capacity in which veteran served; questions relating to potential inhalation exposures to DU including those on, in, or near vehicles hit with friendly fire or enemy fire, entering burning vehicles, individuals near fires involving DU munitions, individuals salvaging damaged vehicles, and those near burning vehicles; whether veteran was wounded, retained DU fragments in veteran's body, handled DU penetrator rounds or any other exposures to DU; whether a 24-hour urine collection for uranium was performed; whether veteran consented to having the DU questionnaire data shared with the Department of Defense; name, title and signature of examiner/registry physician, when provided, and results

of urine uranium tests, expressed per mcg per g creatinine.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code (U.S.C.) sec. 1710(e)(1)(B) and sec. 1710(e)(1)(B) and sec. 1720E.

PURPOSE(S):

The records will be used for the purpose of providing information about: Veterans who have had a GWR examination at a VA facility and their spouses and/or children who have had examinations by non-VA physicians to assist in generating hypotheses for research studies; providing management with the capability to track patient demographics; reporting birth defects among veteran's children; planning the delivery of health care services and associated cost; and assisting in the adjudication of claims possibly related to exposure to a toxic substance or environmental hazard.

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

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of, and at the written request of, that individual.

2. Disclosure of records covered by this system, as deemed necessary and proper to named individuals serving as accredited service organization representatives and other individuals named as approved agents or attorneys for a documented purpose and period of time, to aid beneficiaries in the preparation and presentation of their cases during the verification and/or due process procedures, and in the presentation and prosecution of claims under laws administered by the VA.

3. A record containing the name(s) and address(es) of present or former members of the armed services and/or their dependents may be released from this system of records under certain circumstances:

a. To any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and

b. To any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name(s) or address(es) be provided for a purpose authorized by law; provided, further,

that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 3301(f).

4. Disclosure may be made to the National Archives and Record Administration (NARA) in records management inspections conducted under authority of Title 44 United States Code.

5. Disclosure of information, excluding name and address (unless name and address is furnished by the requestor) for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Under Secretary for Health.

6. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(s) of present or former personnel or the Armed Services and/or their dependents may be disclosed

a. To a Federal department or agency or

b. Directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, the VA may impose applicable conditions on the department, agency, and/or contractor to ensure the appropriateness of the disclosure to the contractor.

7. In the event that a record maintained by VA to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, information may be disclosed at VA's own initiative to the appropriate agency whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto. However, names and addresses of veterans and their dependents will be released only to Federal entities.

8. For program review purposes and the seeking of accreditation and/or certification, disclosure may be made to survey teams of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with whom VA has a contract or agreement to conduct such reviews but

only to the extent that the information is necessary and relevant to the review.

9. Records from this system of records may be disclosed to the Department of Justice (DOJ) or in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: the agency, or any component thereof; or any employee of the agency in his or her official capacity; where the DOJ or the agency has agreed to represent the employee; or the U.S. when the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation, and has an interest in such litigation, and the use of such records by the DOJ or the agency is deemed by the agency to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which the records were collected.

10. Relevant information may be disclosed to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practical for the purposes of laws administered by VA, in order for the contractor to perform the services of the contract or agreement.

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

STORAGE:

Electronic data are maintained on Direct Access Storage Devices at the AAC, Austin, Texas, and on optical disks at VA Central Office, Washington, DC. AAC stores registry tapes for disaster back up at an off-site location. VA Central Office also has back-up optical disks stored off-site. In addition to electronic data, registry reports are maintained on paper documents and microfiche.

RETRIEVABILITY:

Records are indexed by name of veteran and social security number.

SAFEGUARDS:

Access to records to VA Central Office is only authorized to VA personnel on a "need to know" basis. Records are maintained in manned rooms during working hours. During non-working hours, there is limited access to the building with visitor control by security personnel. Registry data maintained at the AAC can only be updated by authorized AAC personnel. Read access to the data is granted through a telecommunications network to authorized VA Central Office personnel. AAC reports are also accessible through a telecommunications network on a ready-only basis to the owner (VA facility) of the data. Access is limited to authorized employees by individually unique access codes which are changed periodically. Physical access to the AAC is generally restricted to AAC staff, VA Central Office employees, custodial personnel, Federal Protective Service, and authorized operational personnel through electronic locking devices. All other persons gaining access to the computer rooms are escorted. Backup records stored off-site for both the AAC and VA Central Office are safeguarded in secured storage areas.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Environmental Agents Service (131), Office of Public Health and Environmental Hazards (clinical issues) and Management/Program Analyst, Environmental Agents Service (131) (administrative issues) VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personnel identifier, or wants to determine the contents of such record, should submit a written request or apply in person to the last VA facility where medical care was provided or submit a written request to the Director, Environmental Agents Service (131), Office of Public Health and Environmental Hazards or the Management/Program Analyst, Environmental Agents Service (131), VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. Inquiries should include the veteran's name, social security number and return address.

RECORD ACCESS PROCEDURES:

An individual who seeks access to records maintained under his or her name may write or visit the nearest VA facility or write to the Director, Environmental Agents Service (131), or the Management/Program Analyst, Environmental Agents Service (131), VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

CONTESTING RECORDS PROCEDURES:

(See "Record Access Procedures.")

RECORDS SOURCE CATEGORIES:

VA patient medical records, various automated record systems providing clinical and managerial support to VA health care facilities, the veteran, family members, and records from Veterans Benefits Administration, Department of Defense, Department of the Army, Department of the Air Force, Department of the Navy and other Federal agencies.

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