

Physical access to the AAC is generally restricted to AAC staff, VA Central Office staff, 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. A disaster recovery plan is in place and system recovery is tested at an off-site facility in accordance with established schedules.

#### 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 personal 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:

Refer to previous item "Record Access Procedures."

#### RECORD 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 the Veterans Benefits Administration, Department of Defense, Department of the Army, Department of the Air Force, Department of the Navy and other Federal agencies.

[FR Doc. 03-31812 Filed 12-24-03; 8:45 am]

BILLING CODE 8320-01-P

#### DEPARTMENT OF VETERANS AFFAIRS

##### Privacy Act of 1974; System of Records

**AGENCY:** Department of Veterans Affairs (VA).

**ACTION:** Notice of amendment to system of records.

**SUMMARY:** The Privacy Act of 1974 (5 U.S.C. 552a(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 amending the system of records entitled "Ionizing Radiation Registry—VA" (69VA131) as set forth **Federal Register** 56 FR 26186 dated June 6, 1991, and last amended in the **Federal Register** 66 FR 30271-30273 dated June 5, 2001. VA is amending the system by revising the System Location, the Categories of Individuals Covered by this System, the Authority for Maintenance of the System, the Purpose(s) of the system, the Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses, and the Policies and Practices for Storing, Retrieving, Accessing, Retaining and Disposing of Records in the System. VA is republishing the system notice in its entirety.

**DATES:** Comments on the amendment of this system of records must be received no later than January 28, 2004. If no public comment is received, the amended system will become effective January 28, 2004.

**ADDRESSES:** You may mail or hand-deliver written comments concerning the proposed amended system of records to the Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or fax comments to (202) 273-9026; or e-mail comments to "OGCRegulations@mail.va.gov". All relevant material received before

January 28, 2004, will be considered. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1063B, 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 (19F2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (727) 320-1839.

**SUPPLEMENTARY INFORMATION:** The Ionizing Radiation Registry (IRR) program is located at the Austin Automation Center (AAC), Austin, Texas, is an automated integrated system containing demographic and medical data of registry examinations from 1981 through the current date. These data were entered manually on code sheets by VA facility staff and hard copies were sent to the AAC for entry into the IRR data set. The IRR system of records located at VA Central Office, Washington, DC, is an optical disk system containing images of paper records, *i.e.*, code sheets, medical records, correspondence and questionnaires relating to the veterans exposed to ionizing radiation. Once these paper records are scanned on optical disks, they are disposed of in accordance with VHA Records Control Schedule (RCS) 10-1.

The System Location has been amended to include the IRR system's change to a secure web-based data entry procedure. The process moved to a secure web-based data entry system at each VA facility during the first quarter of calendar year 2003. The secure web-based data entry system is maintained by the AAC and provides retrievable images to users. The optical disk system is currently being utilized where there is no access to the secure web-based system. However, the optical disk system is scheduled to be discontinued in 2004 and all access to the IRR system will be through the secure web-based data entry system.

As amended by Title 38, Code of Federal Regulations, the Categories of Individuals Covered by this System has been amended. This system will continue to include data collected for veterans who may have been exposed to a radiation-risk activity, as authorized by Title 38, U.S.C., under the following conditions:

1. On-site participation in a test involving the atmospheric detonation of a nuclear weapon, whether or not the testing nation was the United States. Note: Reference to the timeframe

between 1945 and 1962 has been deleted.

2. Participation in the occupation of Hiroshima or Nagasaki from August 6, 1945, through July 1, 1946; or

(a) Internment as a Prisoner-of-War in Japan during World War II that the Secretary of Veterans Affairs determines resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans involved in the occupation of Hiroshima or Nagasaki;

3. Who have received nasopharyngeal (NP) radium treatments during active military, naval or air service.

4. Participated in radiation-risk activities, at the:

a. Department of Energy gaseous diffusion plants at Paducah, KY, Portsmouth, OH, or K25 area at Oak Ridge, TN, for at least 250 days before February 1, 1992;

b. Underground nuclear tests at Amchitka Island, AK, before January 1, 1974

The Categories of Individuals Covered by this System has also been amended as this system of record describes registries, not treatment or claims. Upon review of the system, the following former statements were found to be no longer necessary and are being deleted:

- 3 (a) veterans who apply for hospital or nursing home care under Title 38 United States Code, Chapter 17;

- 3 (b) files a claim for compensation under Title 38 United States Code, Chapter 11; or

- 3 (c) dies and is survived by a spouse, child, or parent who files a claim for dependency and indemnity compensation under Title 38 United States Code, Chapter 3;

A duplicate reference to U.S.C. 1710(e)(1)(B) in this paragraph has also been deleted.

In addition to the categories of records maintained in the IRR system, clinicians' names and titles are included but may not be retrievable. Outdated information related to the estimate of the radiation doses to which the veterans are exposed while on active military duty has been deleted from these records.

These IRR records may have several identifiers—Department of Defense data are identified by military service number and only 25 percent are identified by social security numbers.

The Authority for Maintenance of the System has been amended to delete a duplicate reference to U.S.C. 1710(e)(1)(B).

The Purpose(s) of this system of records has been amended to further define the use of the records. The purpose of this IRR system of records is to provide information about veterans

who have had an IRR examination at a VA facility, to assist in generating hypotheses for research studies, provide management with the capability to track patient demographics, reported birth defects among veterans' children or grandchildren; and radiogenic related diseases and planning and delivery of health care services and associated costs. The records are used to assist in generating hypotheses for research studies. Because of the self-selected nature of the registry participants, *i.e.* the individuals decide themselves to be part of the registry rather than being "chosen" in a scientific manner, this group cannot be used for scientific research. However, the IRR may assist researchers by providing clues or suggestions of specific health problems that then form the basis for the design and conduct of specific scientific studies.

VA is amending the following routine use disclosures of information to be maintained in the system:

- Routine use number nine (9) is being amended in its entirety. VA must be able to comply with the requirements of agencies charged with enforcing the law and conducting investigations. VA must also be able to provide information to state or local agencies charged with protecting the public's health as set forth in state law. The routine use will be as follows: On its own initiative, VA may disclose information, except for the names and home addresses of veterans and their dependents, to a Federal, state, local, tribal or foreign agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

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.

Under section 264, Subtitle F of Title II of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Public Law 104-191, 100 Stat. 1936, 2033-34 (1996), the United States Department of Health and Human Services (HHS) published a final rule, as amended, establishing Standards for Privacy of Individually-Identifiable Health Information, 45 CFR parts 160 and 164. VHA may not disclose individually-identifiable health information (as defined in HIPAA and the Privacy Rule, 42 U.S.C. 1320(d)(6) and 45 CFR 164.501) pursuant to a routine use unless either: (a) The disclosure is required by law, or (b) the disclosure is also permitted or required by the HHS Privacy Rule. The disclosures of individually-identifiable health information contemplated in the routine uses published in this amended system of records notice are permitted under the Privacy Rule or required by law. However, to also have authority to make such disclosures under the Privacy Act, VA must publish these routine uses. Consequently, VA is publishing these routine uses and is adding a preliminary paragraph to the routine uses portion of the system of records notice stating that any disclosure pursuant to the routine uses in this system of records notice must be either required by law or permitted by the Privacy Rule before VHA may disclose the covered information.

The Storage section of Policies and Practices for Storing, Retrieving, Accessing, Retaining and Disposing of Records in the System has been amended to address the data collection process move to a web-based system.

Safeguards have been amended to state that data is securely located behind the VA firewall and only accessible from the VA Local Area Network (LAN) through the VA Intranet.

References throughout the system notice to VA Headquarters have been amended to VA Central Office.

The Report of Intent to Publish an Amended System of Records and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of 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 18, 2003.

**Anthony J. Principi,**  
*Secretary of Veterans Affairs.*

**69VA131**

**SYSTEM NAME:**

Ionizing Radiation Registry—VA.

**SYSTEM LOCATION:**

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

The secure web-based data entry system is maintained by the AAC and provides retrievable images to users. The optical disk system is currently being utilized where there is no access to the secure web-based system. However, the optical disk system is scheduled to be discontinued in 2004 and all access to the Ionizing Radiation Registry (IRR) system will be through the secure web-based data entry system.

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

Veterans who may have been exposed to ionizing radiation while on active military duty and have had an IRR examination at a Department of Veterans Affairs (VA) medical facility under conditions described in Title 38 United States Code (U.S.C.) 1710(e)(1)(B) and 1720E. These conditions include:

1. On-site participation in a test involving the atmospheric detonation of a nuclear device at a nuclear device testing site—the Pacific Island, *e.g.*, Bikini, New Mexico, Nevada, etc. (whether or not the testing nation was the United States);

2. Participation in the occupation of Hiroshima or Nagasaki, Japan, from August 6, 1945, through July 1, 1946;

(a) Internment as a POW in Japan during World War II which the Secretary of Veterans Affairs determines resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans involved in the occupation of Hiroshima or Nagasaki, Japan;

3. Treatment with nasopharyngeal (NP) radium irradiation while in the active military, naval or air service; and

4. Participated in radiation-risk activities at the:

(a) Department of Energy gaseous diffusion plants at Paducah, KY, Portsmouth, OH, or K25 area at Oak Ridge, TN, for at least 250 days before February 1, 1992;

(b) Underground nuclear tests at Amchitka Island, AK, before January 1, 1974.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

These records consist of code sheet records containing VA facility code identifier where the veteran was examined or treated; veteran's name; address; social security number; military service serial number; claim number; date of birth; telephone number; sex; report of birth defects among veteran's children or grandchildren; dates of medical examinations; consultations; radiogenic related diseases; and name and signature of examiner/physician coordinator.

In addition, there may be medical records with information relating to the examination and/or treatment, including laboratory findings on vision, hearing, blood tests, electrocardiograms, chest x-rays, urinalysis, laboratory report displays, medical certificates to support diagnosis; progress notes; military unit assignments; questionnaires; correspondence relating to veteran's exposure history; personal history, *e.g.*, education, marital status, occupational history, family history, complaints/symptoms; personal medical history, habits, recreation, reproductive and family history, physical measurements; military discharge records; and VA claims for compensation.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

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

**PURPOSE(S):**

The records will be used for the purpose of providing information about veterans who have had an IRR examination at a VA facility; assisting in generating hypotheses for research studies; providing management with the capability to track patient demographics, and radiogenic related diseases; and planning and delivery of health care services and associated costs. The records are used to assist in generating hypotheses for research studies. Because of the self-selected nature of the registry participants, *i.e.*, the individuals decide themselves to be part of the registry rather than being "chosen" in a scientific manner, this group cannot be used for scientific research. However, the IRR may assist researchers by providing clues or suggestions of specific health problems that then form the basis for the design and conduct of specific scientific studies.

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

VA may disclose protected health information pursuant to the following routine uses where required by law, or required or permitted by 45 CFR parts 160 and 164.

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 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 standing 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. 5701(f).

4. Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of Title 44 U.S.C.

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(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 insure the appropriateness of the disclosure to the contractor.

7. Any information in this system may be disclosed to a Federal grand jury, a Federal court or a party in litigation, or a Federal agency or party to an administrative proceeding being conducted by a Federal agency, in order for VA to respond to and comply with the issuance of a Federal subpoena.

8. Any information in this system may be disclosed to a state or municipal grand jury, a state or municipal court or a party in a litigation, or to a state or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such agency, in order for VA to respond to and comply with the issuance of a state or municipal subpoena; provided, that any disclosure or claimant information made under this routine use must comply with the provisions of 38 CFR 1.511.

9. VA may disclose on its own initiative any information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

10. 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.

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

**STORAGE:**

In 2003, the data collection process moved to a secure web-based system. Data previously recorded manually and converted to electronic format is now input through the secure VA Intranet system. Data is stored on a web server hosted by the AAC and is retrievable by the facility. Three levels of access are provided for the data that is input, using password security linked to the AAC Top Secret Security system, with mandated changes every 90 days. Data from individual facilities is uploaded nightly and stored 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.

The optical disk system is currently being utilized where there is no access to the secure web-based system. The optical disk system is scheduled to be discontinued in 2004 and all access to the IRR system will be through the secure web-based data entry system. Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

**RETRIEVABILITY:**

Documents are retrieved by name of veteran, social security number and service serial number.

**SAFEGUARDS:**

Access to records at 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.

Data is securely located behind the VA firewall and only accessible from the VA Local Area Network (LAN)

through the VA Intranet. 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 read-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, 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. A disaster recovery plan is in place and system recovery is tested at an off-site facility in accordance with established schedules.

**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:**

Program Chief for Clinical Matters, Office of Public Health and Environmental Hazards (13) (for clinical issues) and Management/Program Analyst, Environmental Agents Service (131) (for 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 personal 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 Program Chief for Clinical Matters, Office of Public Health and Environmental Hazards (13) 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, service serial 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 Program Chief for

Clinical Matters, Office of Public Health and Environmental Hazards (13) or the Management/Program Analyst, Environmental Agents Service (131), VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

**CONTESTING RECORDS PROCEDURES:**

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**RECORD 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.

[FR Doc. 03-31813 Filed 12-24-03; 8:45 am]

**BILLING CODE 8320-01-P**