

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board****[STB Finance Docket No. 34657]****BNSF Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company**

Union Pacific Railroad Company (UP) has agreed to grant overhead trackage rights to BNSF Railway Company, f/k/a The Burlington Northern and Santa Fe Railway Company (BNSF), over: (1) A line of railroad between UP's milepost 1.7 at a station known as Tower 30, on UP's Glidden Subdivision and Strang yard, TX, and UP's milepost 21.5 on UP's Strang Subdivision; and (2) portions of a line of railroad between Tower 30 and Strang yard that are owned by the Port of Houston (PHA), maintained by the Port Terminal Railroad Association (PTRA), and jointly operated by PTRA and UP pursuant to UP's contractual arrangements with PHA and PTRA.<sup>1</sup> The line is located in the State of Texas. The total distance of the trackage rights granted to BNSF is approximately 15.6 miles.

The transaction was scheduled to be consummated on February 1, 2005, and operations under this exemption were scheduled to begin on that date. The purpose of the temporary trackage rights is to allow BNSF access to a limited subset of facilities on the Bayport Loop, southeast of Houston, TX, and BNSF's system trackage in the Houston terminal, including, without limitation, access to BNSF's existing rights between Tower 30 and the East and West Belts.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance

Docket No. 34657, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Sarah W. Bailiff, Senior General Attorney, BNSF Railway Company, P.O. Box 961039, Fort Worth, TX 76161-0039.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: February 4, 2005.

By the Board, David M. Konschnick, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 05-2682 Filed 2-10-05; 8:45 am]

**BILLING CODE 4915-01-P**

**DEPARTMENT OF VETERANS AFFAIRS****Privacy Act of 1974; New System of Records**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of new 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 of and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is adding a new system of records entitled "Purchase Credit Card Program—VA" (131VA047).

**DATES:** To assure consideration, written comments mailed to the Department as provided below must be postmarked no later than March 14, 2005, and written comments hand delivered to the Department and comments submitted electronically must be received as provided below, no later than 5 p.m. Eastern Time on March 14, 2005. If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by VA, the new system of records statement is effective March 14, 2005.

**ADDRESSES:** Written comments concerning the proposed amended system of records may be submitted by: Mail or hand-delivery to Director, Regulations Management (OOREG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; fax to (202) 273-9026; or e-mail to "[VAregulations@mail.va.gov](mailto:VAregulations@mail.va.gov)". All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8

a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273-9515 for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Peter Mulhern, Office of Financial Policy (047GC1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-5570.

**SUPPLEMENTARY INFORMATION:****I. Description of the Proposed System of Records**

The General Services Administration has established a governmentwide charge card service. This service is used as a payment mechanism and is designed to provide better financial and cash management controls over the Federal Government's low dollar value procurements. Individual employees are selected by their agencies to obtain and use the Government's purchase card, called SmartPay, to aid in the employee's procurement responsibilities.

An individual employee obtains a credit card by applying to a private contractor, which currently is Citibank. This application is given to the agency Program Coordinator, who serves as the focal point for coordination of applications, issuance and destruction of cards, establishment of reports, and administrative training. This Program Coordinator also serves as a liaison between the agency and Citibank. Prior to obtaining this account, an employee receives a delegation of authority from his/her agency, which indicates the maximum dollar amount for each single purchase made and a dollar limit for total purchases made with the credit card in a given month. At the close of each billing cycle, each employee receives a "Statement of Account" from Citibank that itemizes each transaction.

In order to successfully participate in the SmartPay purchase card program, VA must maintain certain records on the employees who have obtained a credit card. This information includes name, address, social security number, employment information, telephone numbers, information needed for identification verification, charge card applications, charge card statements, terms and conditions for use of the charge card, and monthly report from contractor(s) showing charges to individual account numbers, balances and other types of account analysis. This information is retrievable by the employee's name. Consequently, a Privacy Act system of records must be established in order to protect this information.

<sup>1</sup> A redacted version of the trackage rights agreement between BNSF and UP was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was filed under seal along with a motion for protective order on January 28, 2005. A protective order is being served on February 4, 2005.

## II. Proposed Routine Use Disclosures of Data in the System

VA is proposing to establish the following routine use disclosures of the information that will 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 a staff person acting for the member, when the member or staff person requests the record on behalf of and at the written request of the individual.

Individuals sometimes request the help of a Member of Congress in resolving some issue 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. 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.

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

3. Records from this system of records may be disclosed to the Department of Justice (DOJ) (including U.S. Attorneys) or in a proceeding before a court, adjudicative body, or other administrative body when litigation or the adjudicative or administrative process is likely to affect VA, the employees or any of its components, or when VA, its employees, or any of its components is a party to the litigation or process, or has an interest in the litigation or process, and the use of such records is deemed by VA to be relevant and necessary to the litigation or process, provided that the disclosure is compatible with the purpose for which the records were collected.

Whenever VA is involved in litigation or an adjudicative or administrative process, or occasionally when another party is involved in litigation or an adjudicative or administrative process, and VA policies or operations could be affected by the outcome of the litigation or process, VA would be able to disclose information to the court, the adjudicative or administrative bodies, or the 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

or process is compatible with a purpose for which VA collects the information.

4. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

VA must be able to provide information to contractors and subcontractors with whom VA has a contract or agreement in order to perform the services of the contract or agreement.

5. VA may disclose on its own initiative any information in this system that 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.

VA must be able to comply with the requirements of agencies charged with enforcing the law and investigations of violations or possible violations of law. VA must also be able to provide information to Federal, State, local, tribal and foreign agencies charged with protecting the public health as set forth in law.

6. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

Abuse of Federal programs costs the Federal Government and taxpayers large sums of money every year. Information contained in VA records may help detect and/or prevent fraud and abuse of other agency programs. VA must be able to assist other Federal agencies in their efforts to detect and prevent fraud and abuse in their programs.

7. Any information in this system may be disclosed, other than to consumer reporting agencies, in connection with any proceeding for the collection of an amount owed VA as the result of an employee's unauthorized use of a purchase card when such disclosure is deemed necessary and proper.

Sometimes an employee uses the purchase card to obtain unauthorized items. If VA pays for such purchases, VA will seek reimbursement from the employee. If the employee does not

voluntarily reimburse VA for the unauthorized purchases, VA will pursue collection through procedures set forth in 31 U.S.C., chapter 37, subchapters I and II, 31 CFR parts 900-904, and VA regulations 38 CFR 1.900-1.954, as well as through Federal salary offset under 5 U.S.C. 5514 and VA regulations 38 CFR 1.980-1.994.

8. Routine uses 8 and 9 are added to this new system of records to authorize release of information to the Department of the Treasury, the Department of Justice, other Federal agencies, and private collection agencies for debt collection purposes.

In accordance with the Debt Collection Improvement Act of 1996 (DCIA) (Public Law 104-134, April 26, 1996), VA and other Federal agencies must now notify the Department of the Treasury of all delinquent debts over 180 days old so that Treasury can collect these debts through administrative offset from Federal payments, including tax refunds and salary payments. VA and other Federal agencies are also required to refer delinquent debts over 180 days old to the Department of the Treasury so that Treasury may attempt to collect, compromise, or terminate these debts. Treasury may also refer these debts to other designated Federal debt collection centers, to the Department of Justice for litigation, or to private collection agencies.

9. Records from the system of records may be disclosed to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

As noted above, sometimes an employee uses the purchase card to obtain unauthorized items. In addition to debt collection procedures, the employee may face disciplinary action for such unauthorized use of the card. As a result, the employee may seek representation or guidance from recognized labor organizations and VA must be able to provide information to labor organizations to enable them to provide adequate representation and guidance under these circumstances.

10. The name and address of an employee, and other information as is reasonably necessary to identify such employee, may be disclosed to a consumer reporting agency for the purpose of locating the employee or, obtaining a consumer report to determine the ability of the employee to repay an indebtedness to VA arising by virtue of the unauthorized use of a purchase credit card, provided that the

requirements of 31 U.S.C. 3711(e) have been met.

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act 15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 31 U.S.C. 3701(a)(3). The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security number), the amount, status and history of the claim, and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report. Title 31 U.S.C. 3711(d) governs the release of names and addresses of any person to consumer reporting agencies under certain circumstances.

### III. Compatibility of the Proposed Routine Use Disclosures

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 VA collected the information. In all of the routine use disclosures described above, the recipient of the information will use the information either in connection with a matter relating to one of VA's programs, or will use the information to provide a benefit to VA, or will disclose as 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 on December 12, 2000 (65FR77677).

Approved: January 26, 2005.

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

#### SYSTEM NAME:

Purchase Credit Card Program-Va (131VA047).

#### SYSTEM LOCATION:

This system of records is located in the finance/fiscal office of the local installation of the Department, the Financial Services Center, Austin, TX, as well as VA Central Office, Washington, DC. Records necessary for the contractor to perform under the contract are located at the contractor's facility.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are current VA employees who have their own Government assigned charge card, or who have had a charge card.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Records include name, work and home addresses, social security number, date of birth, employment information, work and home telephone numbers, information needed for identification verification, charge card applications, charge card statements, terms and conditions for use of the charge card, and monthly report from contractor(s) showing charges to individual account numbers, balances, and other types of account analysis.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Acquisition Regulation (FAR), part 13, 48 CFR part 13, and Public Law 93-579, section 7(b).

#### PURPOSE(S):

To establish and maintain a system for operating, controlling, and managing the purchase card program involving commercial purchases by authorized VA employees.

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

System information may be accessed and used by authorized VA employees or contractors to conduct duties associated with the management and operation of the purchase card program.

Information from this system also may be disclosed as a routine use for the following purposes:

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

2. 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.

3. Records from this system of records may be disclosed to the Department of Justice (DOJ) (including U.S. Attorneys) or in a proceeding before a court, adjudicative body, or other administrative body when litigation or the adjudicative or administrative process is likely to affect VA, its employees or any of its components, or when VA, its employees, or any of its components is a party to the litigation or process, or has an interest in the litigation or process, and the use of such records is deemed by VA to be relevant

and necessary to the litigation or process, provided that the disclosure is compatible with the purpose for which the records were collected.

4. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

5. VA may disclose on its own initiative any information in this system that 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.

6. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

7. Any information in this system of records may be disclosed, other than to consumer reporting agencies, in connection with any proceeding for the collection of an amount owed VA as the result of an employee's unauthorized use of a purchase card when such disclosure is deemed necessary and proper.

8. Any information in this system of records concerning a delinquent debt may be disclosed to the Secretary of the Treasury, or to any designated Government disbursing official, for the purpose of conducting administrative offset of any eligible Federal payments under the authority set forth in 31 U.S.C. 3716. Tax refund and Federal salary payments may be included in those Federal payments eligible for administrative offset.

9. Any information in this system of records concerning a delinquent debt may be disclosed to the Secretary of the Treasury for appropriate collection or termination action, including the transfer of the indebtedness for collection or termination, in accordance with 31 U.S.C. 3711(g)(4), to a debt collection center designated by the Secretary of the Treasury, to a private collection agency, or to the Department of Justice. The Secretary of the Treasury, through the Department of the Treasury, a designated debt collection center, a

private collection agency, or the Department of Justice may take appropriate action on a debt in accordance with the existing laws under which the debt arose.

10. Records from this system of records may be disclosed to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act 15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 31 U.S.C. 3701(a)(3). The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security number), the amount, status and history of the claim, and limited to the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report. Title 31 U.S.C. 3711(e) governs the release of names and addresses of any person to

consumer reporting agencies under certain circumstances.

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

**STORAGE:**

Paper documents and electronic storage media.

**RETRIEVABILITY:**

These records may be retrieved using various combinations of name or identification number (credit card number) of the individual on whom the records are maintained.

**SAFEGUARDS:**

Access to these records is restricted to authorized VA employees, contractors, or subcontractors on a "need to know" basis. Offices where these records are maintained are locked after working hours and are protected from outside access by the Federal Protective Service, other security officers, and alarm systems. Access to computerized records is restricted to authorized VA employees, contractors, or subcontractors by means of unique user identification and passwords.

**RETENTION AND DISPOSAL:**

In accordance with General Records Schedule 6, Item 1a(2), retain in inactive storage 1 year after the close of the fiscal

year, then transfer to a Federal Archives and Records Center, Destroy 6 years and 3 months after period covered by account.

**SYSTEM MANAGER(S) AND ADDRESS:**

Deputy Assistant Secretary for Finance (047), VA Central Office, Washington, DC 20420.

**NOTIFICATION PROCEDURE:**

Individuals seeking information concerning the existence of a record pertaining to them must submit a written request to the VA station where the records are maintained. Such requests must contain a reasonable description of the records requested. In addition, identification of the individual requesting the information will be required in the written request and will consist of the requester's name, signature, and address, as a minimum.

**RECORD ACCESS PROCEDURE:**

(See Notification procedure above.)

**CONTESTING RECORD PROCEDURE:**

(See Notification procedure above.)

**RECORD SOURCE CATEGORIES:**

Information received from individuals and the private card contractor.

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