

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board**

[STB Finance Docket No. 34750]

Browns, Grayville & Poseyville Railway Company—Acquisition and Operation Exemption—Owensville Terminal Company, Inc.

Browns, Grayville & Poseyville Railway Company (BG&P), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 22.5 miles of rail line owned by Owensville Terminal Company, Inc. (OTC) in Edwards and White Counties, IL, and Gibson and Posey Counties, IN. The line runs between milepost 205.0 at or near Browns, IL, and milepost 227.5 at or near Poseyville, IN.

On February 25, 1998, a decision and notice of interim trail use or abandonment (NITU) was served in *Owensville Terminal Company, Inc.—Abandonment Exemption—In Edwards and White Counties, IL and Gibson and Posey Counties, IN*, STB Docket No. AB-477 (Sub No. 3X), establishing a 180-day period under the National Trails System Act, 16 U.S.C. 1247(d), for OTC to negotiate an interim trail use/rail banking agreement for the line. Trail negotiations were successful and an agreement was reached between OTC and Indiana Trails Fund, Inc. within the prescribed period. OTC has subsequently entered into an agreement with BG&P whereby, for value, OTC has conveyed its right to reinstitute rail service on the line to BG&P. BG&P now wishes to reactivate service over the line.¹

BG&P certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier, and that its annual revenues will not exceed \$5 million.

The transaction was expected to be consummated on or after September 1, 2005, the effective date of the exemption (7 days after the exemption was filed).

If the notice 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.

¹ BG&P simultaneously filed a petition to vacate the NITU issued in *Owensville Terminal Company, Inc.—Abandonment Exemption—in Edwards and White Counties, IL and Gibson and Poseyville Counties, IN*, STB Docket No. AB-477 (Sub. No. 3X) (STB served Feb. 25, 1998). The petition will be addressed by the Board in a separate decision.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34750, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, 208 South La Salle Street, Suite 1890, Chicago, IL 60604.

Board decisions and notices are available on our Web site at <http://www.Stb.Dot.Gov>.

Decided: September 9, 2005.

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

Vernon A. Williams,
Secretary.

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BILLING CODE 4915-01-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: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records currently entitled “The Revenue Program—Billing and Collections Records-VA” (114VA16) as set forth in the **Federal Register** 69 FR 4205. VA is amending the system of records by revising the Categories of Records in the System, Purpose and Routine Uses of Records Maintained 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 October 20, 2005. If no public comment is received, the amended system will become effective October 20, 2005.

ADDRESSES: Written comments concerning the proposed amended system of records may be submitted by: mail or hand-delivery to Director, Regulations Management (00REG1), 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. 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: Veterans Health Administration (VHA) Privacy Act Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; telephone (727) 320-1839.

SUPPLEMENTARY INFORMATION: VA is amending “The Revenue Program—Billing and Collections Records-VA” (114VA16) to allow for the collection of the National Provider Identifier (NPI) of healthcare providers in order for the NPI to be submitted on claims for payment of healthcare services provided by VA. The Categories of Records in the System is amended to add the NPI to the other demographic data collected on healthcare providers. Purpose(s) is amended to reflect how the data may be used to make application for a NPI, as required under the Health Insurance Portability and Accountability Act (HIPAA) Administrative Simplification Rule on Standard Unique Health Identifier for Healthcare Providers which includes participation in pilot testing of NPI enumeration system by the Centers for Medicare and Medicaid Services (CMS).

We are proposing to amend and establish the following Routine Use disclosure of information maintained in the system:

Routine Use ten (10) is amended to add NPI to the list of healthcare provider demographic data that may be disclosed to a third party where the third party requires the Department provide that information before it will pay for medical care provided by VA.

Routine Use thirteen (13) is amended to replace “Patient identifying information may be disclosed” to “Relevant information may be disclosed.” Identifying information on a spouse sometimes must be disclosed to a third party payer in order for VA to be reimbursed for services.

A new Routine Use seventeen (17) is added. Provider identifying information may be disclosed from this System of Records to CMS to test the enumeration system for the NPI and, once the system is operational, to obtain a NPI for any eligible healthcare professional providing examination or treatment within VA healthcare facilities.

VA needs the NPI to be able to bill for services provided by the healthcare provider.

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 Report of Intent to Amend a System of Records Notice 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: September 1, 2005.

Gordon H. Mansfield,
Deputy Secretary of Veterans Affairs.

114VA16

SYSTEM NAME:

The Revenue Program—Billing and Collections Records-VA.

SYSTEM LOCATION:

Records are maintained at each VA healthcare facility. In most cases, back-up computer tape information is stored at off-site locations. Address locations for VA facilities are listed in VA Appendix 1 of the biennial publication of VA Privacy Act Issuances. In addition, information from these records or copies of records may be maintained at the Department of Veterans Affairs (VA), 810 Vermont Avenue, NW, Washington, DC; the VA Austin Automation Center (AAC), Austin, Texas; Veterans Integrated Service Network (VISN) Offices; VA Allocation Resource Center (ARC), Boston, Massachusetts, and contractor facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Veterans who have applied for healthcare services under Title 38, United States Code, Chapter 17, and in certain cases members of their immediate families.
2. Beneficiaries of other Federal agencies.
3. Individuals examined or treated under contract or resource sharing agreements.
4. Individuals examined or treated for research or donor purposes.
5. Individuals who have applied for Title 38 benefits but who do not meet the requirements under Title 38 to receive such benefits.
6. Individuals who were provided medical care under emergency conditions for humanitarian reasons.
7. Pensioned members of allied forces (Allied Beneficiaries) who are provided

healthcare services under Title 38, United States Code, Chapter 1.

8. Healthcare professionals providing examination or treatment to any individuals within VA healthcare facilities.

9. Healthcare professionals providing examination or treatment to individuals under contract or resource sharing agreements.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may include information related to:

1. The social security number and insurance policy number of the veteran and/or veteran's spouse. The record may include other identifying information (e.g., name, date of birth, age, sex, marital status) and address information (e.g., home and/or mailing address, home telephone number).
2. Insurance company information specific to coverage of the veteran and/or spouse to include annual deductibles and benefits.
3. Diagnostic codes (ICD9-CM, CPT-4, and any other coding system) pertaining to the individual's medical, surgical, psychiatric, dental and/or psychological examination or treatment.
4. Charges claimed to a third party payer, including insurance companies, other Federal agencies, or foreign governments, based on treatment/services provided to the patient.
5. Charges billed to those veterans who are required to meet co-payment obligations for treatment/services rendered by VA.
6. The name, social security number, universal personal identification number, National Provider Identifier (NPI) and credentials including provider's degree, licensure, certification, registration or occupation of healthcare providers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code (U.S.C.), sections 1710 and 1729.

PURPOSE(S):

The records and information are used for the billing of, and collections from, a third-party payer, including insurance companies, other Federal agencies, or foreign governments, for medical care or services received by a veteran for a nonservice-connected condition or from a first party veteran required to make co-payments. The records and information are also used for the billing of and collections from other Federal agencies for medical care or services received by an eligible beneficiary. The data may be used to identify and/or verify insurance coverage of a veteran or veteran's spouse prior to submitting claims for medical

care or services. The data may be used to support appeals for non-reimbursement of claims for medical care or services provided to a veteran. The data may be used to enroll healthcare providers with health plans and VA's healthcare clearinghouse in order to electronically file third-party claims. For the purposes of healthcare billing and payment activities to and from third party payers, VA will disclose information in accordance with the legislatively-mandated transaction standard and code sets promulgated by the United States Department of Health and Human Services (HHS) under the Health Insurance Portability and Accountability Act (HIPAA). The records and information may be used for statistical analyses to produce various management, tracking and follow-up reports, to track and trend the reimbursement practices of insurance carriers, and to track billing and collection information.

The data may be used to enroll healthcare providers with health plans and VA's healthcare clearinghouse in order to electronically file third party claims. The data may be used to make application for a NPI, as required HIPAA Administrative Simplification Rule on Standard Unique Health Identifier for Healthcare Providers, 45 CFR Part 162, for all healthcare professionals providing examination or treatment within VA healthcare facilities, including participation in pilot test of NPI enumeration system by the Centers of Medicare and Medicaid Services (CMS). The records and information may be used for statistical analyses to produce various management, tracking and follow-up reports, to track and trend the reimbursement practices of insurance carriers, and to track billing and collection information.

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

To the extent that records contained in the system include information protected by 45 CFR parts 160 and 164, *i.e.*, individually-identifiable health information, and 38 U.S.C. 7332; *i.e.*, medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus, that information cannot be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 CFR parts 160 and 164 permitting disclosure.

1. On its own initiative, VA may disclose information, except for the names and home address 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.

2. Disclosure may be made to an agency in the executive, legislative, or judicial branch, or the District of Columbia government in response to its request or at the initiation of VA, in connection with the letting of a contract, other benefits by the requesting agency, or the lawful statutory, administrative, or investigative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision. However, names and addresses of veterans and their dependents will be released only to Federal entities.

3. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

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

5. Disclosure may be made to the Department of Justice and United States attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

6. Any information in this system of records, including personal information obtained from other Federal agencies through computer-matching programs, may be disclosed for the purposes identified below to any third party, except consumer reporting agencies, in connection with any proceeding for the collection of an amount owed to the United States by virtue of a person's participation in any benefit program administered by VA. Information may be disclosed under this routine use only to the extent that it is reasonably necessary for the following purposes: (a) To assist VA in collection of Title 38 overpayments, overdue indebtedness, and/or costs of services provided

individuals not entitled to such services; and (b) to initiate civil or criminal legal actions for collecting amounts owed to the United States and/or for prosecuting individuals who willfully or fraudulently obtain Title 38 benefits without entitlement. This disclosure is consistent with 38 U.S.C. 5701(b)(6).

7. The name and address of a veteran, other information as is reasonably necessary to identify such veteran, including personal information obtained from other Federal agencies through computer matching programs, and any information concerning the veteran's indebtedness to the United States by virtue of the person's participation in a benefits program administered by VA may be disclosed to a consumer reporting agency for purposes of assisting in the collection of such indebtedness, provided that the provisions of 38 U.S.C. 5701(g)(4) have been met.

8. The name of a veteran, or other beneficiary, other information as is reasonably necessary to identify such individual, and any information concerning the individual's indebtedness by virtue of a person's participation in a medical care and treatment program administered by VA, may be disclosed to the Treasury Department, Internal Revenue Service, for the collection of indebtedness arising from such program by the withholding of all or a portion of the person's Federal income tax refund. These records may be disclosed as part of a computer-matching program to accomplish these purposes.

9. Relevant information (excluding medical treatment information related to drug or alcohol abuse, infection with the human immunodeficiency virus or sickle cell anemia) may be disclosed to HHS for the purpose of identifying improper duplicate payments made by Medicare fiscal intermediaries where VA was authorized and was responsible for payment for medical services obtained at non-VA healthcare facilities.

10. The social security number, universal personal identification number, NPI, credentials, and other identifying information of a healthcare provider may be disclosed to a third party where the third party requires the Department provide that information before it will pay for medical care provided by VA.

11. 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 and/or subcontractor to perform the services of the contract or agreement.

12. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank and/or State Licensing Board in the State(s) in which a practitioner is licensed, in which the VA facility is located, and/or in which an act or omission occurred upon which a medical malpractice claim was based when VA reports information concerning: (a) Any payment for the benefit of a physician, dentist, or other licensed healthcare practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice if an appropriate determination is made in accordance with agency policy that payment was related to substandard care, professional incompetence or professional misconduct on the part of the individual; (b) a final decision which relates to possible incompetence or improper professional conduct that adversely affects the clinical privileges of a physician, dentist or other licensed healthcare practitioner for a period longer than 30 days; or, (c) the acceptance of the surrender of clinical privileges by a physician, dentist, or other licensed healthcare practitioner either while under investigation by the healthcare entity relating to possible incompetence or improper professional conduct, or in return for not conducting such an investigation or proceeding. These records may also be disclosed as part of a computer-matching program to accomplish these purposes.

13. Relevant information may be disclosed from this system of records to any third party or Federal agency such as the Department of Defense, Office of Personnel Management, HHS and government-wide third-party insurers responsible for payment of the cost of medical care for the identified patients, in order for VA to seek recovery of the medical care costs. These records may also be disclosed as part of a computer-matching program to accomplish these purposes.

14. Relevant information, including the nature and amount of a financial obligation, may be disclosed in order to assist VA in the collection of unpaid financial obligations owed VA, to a debtor's employing agency or commanding officer, so that the debtor-employee may be counseled by his or her Federal employer or commanding officer. This purpose is consistent with 5 U.S.C. 5514, 4 CFR 102.5, and section 206 of Executive Order 11222 of May 8, 1965 (30 FR 6469).

15. Identifying information such as name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/re-privileging of healthcare practitioners, and at other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/re-privileging, retention or termination of the applicant or employee.

16. Disclosure of individually-identifiable health information including billing information for the payment of care may be made by appropriate VA personnel, to the extent necessary and on a need-to-know basis consistent with good medical-ethical practices, to family members and/or the person(s) with whom the patient has a meaningful relationship.

17. Provider identifying information may be disclosed from this System of Records to CMS to test the enumeration system for the NPI and once the system is operational, to obtain an NPI for any eligible healthcare professional providing examination or treatment with VA healthcare facilities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), VA may disclose records from this system 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)).

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

STORAGE:

Records are maintained on paper or electronic media.

RETRIEVABILITY:

Records are retrieved by name, social security number or other assigned identifier of the individuals on whom they are maintained, or by specific bill number assigned to the claim of the individuals on whom they are maintained.

SAFEGUARDS:

1. Access to VA working and storage areas is restricted to VA employees on a "need-to-know" basis; strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. Generally, VA file areas are locked after normal duty hours and the facilities are

protected from outside access by the Federal Protective Service or other security personnel.

2. Information in VistA may only be accessed by authorized VA personnel. Access to file information is controlled at two levels. The systems recognize authorized personnel by series of individually unique passwords/codes as a part of each data message, and personnel are limited to only that information in the file, which is needed in the performance of their official duties. Information that is downloaded from VistA and maintained on personal computers is afforded similar storage and access protections as the data that is maintained in the original files. Access to information stored on automated storage media at other VA locations is controlled by individually unique passwords/codes. Access by Office of Inspector General (OIG) staff conducting an audit, investigation, or inspection at the healthcare facility, or an OIG office location remote from the healthcare facility, is controlled in the same manner.

3. Information downloaded from VistA and maintained by the OIG headquarters and Field Offices on automated storage media is secured in storage areas for facilities to which only OIG staff have access. Paper documents are similarly secured. Access to paper documents and information on automated storage media is limited to OIG employees who have a need for the information in the performance of their official duties. Access to information stored on automated storage media is controlled by individually unique passwords/codes.

4. Access to the VA Austin Automation Center (AAC) is generally restricted to AAC employees, custodial personnel, Federal Protective Service and other security personnel. Access to computer rooms is restricted to authorized operational personnel through electronic locking devices. All other persons gaining access to computer rooms are escorted. Information stored in the AAC databases may be accessed.

5. Access to records maintained at the VA Allocation Resource Center (ARC) and the VISN Offices is restricted to VA employees who have a need for the information in the performance of their official duties. Access to information stored in electronic format is controlled by individually unique passwords/codes. Records are maintained in manned rooms during working hours. The facilities are protected from outside access during non-working hours by the Federal Protective Service or other security personnel.

RETENTION AND DISPOSAL:

Paper records and information stored on electronic storage media are maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for policies and procedures is the Chief Business Officer, Chief Business Office (16), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. The local officials responsible for maintaining the system are the Director of the facility where the individual is or was associated.

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 healthcare facility where care was rendered. Addresses of VA healthcare facilities may be found in VA Appendix 1 of the biennial publication of VA Privacy Act Issuances. All inquiries must reasonably identify the place and approximate date that medical care was provided. Inquiries should include the patient's full name, social security number, insurance company information, policyholder and policy identification number as well as a return address.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to and contesting of records in this system may write, call or visit the VA facility location where they were treated.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

The patient, family members or guardian, and friends, employers or other third parties when otherwise unobtainable from the patient or family; health insurance carriers; private medical facilities and healthcare professionals; state and local agencies; other Federal agencies; VA regional offices; Veterans Benefits Administration automated record systems, including Veterans and Beneficiaries Identification and Records Location Subsystem-VA (38VA23) and the Compensation, Pension, Education and Rehabilitation Records-VA (58VA21/22); and various automated systems providing clinical and

managerial support at VA healthcare facilities to include Health Care Provider Credentialing and Privileging

Records-VA (77VA10Q) and Veterans Health Information Systems and

Technology Architecture (VistA) (79VA19).

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