

that are locked or have limited access) or are otherwise protected; and (2) the system recognizes authorized users by means of an individually unique password entered in combination with an individually unique user identification code.

3. Access to automated records concerning identification codes and codes used to access various VA automated communications systems and records systems, as well as security profiles and possible security violations is limited to designated automated systems security personnel who need to know the information in order to maintain and monitor the security of VA's automated communications and veterans' claim records systems. Access to these records in automated form is controlled by individually unique passwords/codes. Agency personnel may have access to the information on a need to know basis when necessary to advise agency security personnel or for use to suspend or revoke access privileges or to make disclosures authorized by a routine use.

4. Access to VA facilities where identification codes, passwords, security profiles and possible security violations are maintained is controlled at all hours by the Federal Protective Service, VA or other security personnel and security access control devices.

#### RETENTION AND DISPOSAL:

Copies of back-up computer files will be maintained at VA Management Science Group, Bedford, Massachusetts, and VA Information Resource Center, Hines, Illinois.

Records will be maintained and disposed of in accordance with the records disposal authority approved by the Archivist of the United States, the National Archives and Records Administration, and published in Agency Records Control Schedules.

#### SYSTEM MANAGER AND ADDRESS:

Director, Management Science Group, VA Medical Center, 200 Springs Road, Bedford, Massachusetts 01730.

#### NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should submit a signed written request to the Director, Management Science Group, VA Medical Center, 200 Springs Road, Bedford, Massachusetts 01730.

#### RECORDS ACCESS PROCEDURES:

An individual who seeks access to records maintained under his or her name or other personal identifier may write the System Manager named above

and specify the information being contested.

#### CONTESTING RECORD PROCEDURES:

(See Records Access Procedures above.)

#### RECORD SOURCE CATEGORIES:

Information may be obtained from the Patient Medical Records System (24VA136); Patient Fee Basis Medical and Pharmacy Records (23VA136); Veterans and Beneficiaries Identification and Records Location Subsystem (38VA23); Compensation, Pension, Education and Rehabilitation Records (58VA21/22); and Automated Medication Processing Records (56VA119); DoD utilization files and DEERS files; and HCFA Denominator file, Standard Analytical files (inpatient, outpatient, physician supplier, nursing home, hospice, home care, durable medical equipment) and Group Health Plan, and State Medicaid beneficiaries' utilization and enrollment databases.

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## DEPARTMENT OF VETERANS AFFAIRS

### Privacy Act of 1974; System of Records

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

**ACTION:** Notice of New System of Records "Agent Orange Registry—VA".

**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, "Agent Orange Registry—VA" (105VA131).

**DATES:** Comments on the establishment of this system of records must be received no later than February 15, 2001. If no public comment is received, the new system will become effective February 15, 2001.

**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 Regulatory 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 Privacy

Act Officer (193B2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (727) 320-1839.

#### SUPPLEMENTARY INFORMATION:

### 1. Description of the Proposed Systems of Records.

The Agent Orange Registry located at the Austin Automation Center (AAC), Austin, Texas, is an automated integrated system containing demographic and medical data of registry examinations from 1988 until such time as the VA Secretary or Congress by law ends the registry program. These data were entered manually on code sheets by VA facility staff and copies sent to the AAC for entry into the Agent Orange Registry data set.

The purpose of this Agent Orange Registry system of records is to provide information about veterans who have had an Agent Orange Registry examination at a VA facility; to assist in generating hypotheses for research studies; provide management with the capability to track patient demographics; report birth defects among veteran's children; dioxin-related diseases; planning and delivery of health care services and associated costs; and with relation to claims for compensation may assist in the adjudication of claims possibly related to herbicide exposure although more comprehensive medical records are required for evaluation of subject claims.

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

We are proposing to establish the following routine use disclosures of information which 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 staff person acting for the member when the member of 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 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 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 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 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) 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 insure 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 to the appropriate agency whether Federal, State, local or foreign, charged with responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

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 the VA collects the information.

### 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, either the recipient of the information will use the information in connection with a matter relating to one of VA's programs, we 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 Office of Management and Budget (OMB) as required by 5 U.S.C. 552a (Privacy Act) and guidelines issued by OMB (61 FR 6428), February 20, 1996.

Approved: December 22, 2000.

**Hershel W. Gober,**

*Acting Secretary of Veterans Affairs.*

**105VA131**

**SYSTEM NAME:**

Agent Orange Registry—VA.

**SYSTEM LOCATION:**

Character-based data from Agent Orange Registry Code Sheets are maintained in a registry dataset at the Austin Automation Center, 1615 Woodward Street, Austin, Texas 78772.

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

Veterans who may have been exposed to dioxin or other toxic substance in a herbicide or defoliant during active military service in the Republic of Vietnam between 1962 and 1975 and have had an Agent Orange Registry examination at a Department of Veterans Affairs (VA) medical facility.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

These records may contain the following information: Code sheet records recording 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; race/ethnicity; marital status; sex; branch of service; periods of service; areas of service in Vietnam; list of military units where veterans served; method of exposure to herbicides; veteran's self-assessment of health; date of registry examination; veteran's complaints/symptoms; reported birth defects among veteran's children; consultations; diagnoses; disposition (hospitalized, referred for outpatient treatment, etc.) and name and signature of examiner/physician coordinator, when available.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

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

**PURPOSE(S):**

The purpose of this Agent Orange Registry system of records is to provide information about: veterans who have had an Agent Orange Registry 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; dioxin-related diseases; planning and delivery of health care services and associated costs; and with relation to claims for compensation which may assist in the

adjudication of claims possibly related to herbicide exposure although more comprehensive medical records are required for evaluation of subject claims.

**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 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 44 U.S.C. 2904 and 2906.

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 any 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. 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 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.

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.

**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 Austin Automation Center (AAC), Austin, Texas. AAC stores registry tapes for disaster back up at an off-site location.

**RETRIEVABILITY:**

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

**SAFEGUARDS:**

Access to records at VA Headquarters 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 Headquarters 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 Headquarters 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 Headquarters 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 Headquarters, 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 Headquarters, 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 Headquarters, 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 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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