



DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2014-0053]

Privacy Act of 1974; Department of Homeland Security /United States Coast Guard –
010 Physical Disability Evaluation System Files System of Records

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and reissue a current Department of Homeland Security system of records titled, “Department of Homeland Security/United States Coast Guard Physical Disability Evaluation System Files System of Records.” This system of records allows the Department of Homeland Security/United States Coast Guard to collect and preserve the records regarding physical disability evaluation proceedings. As a result of the biennial review of this system, the system manager and address category has been updated. This updated system will be included in the Department of Homeland Security’s inventory of record systems.

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This updated system will be effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number DHS-2014-0053 by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 202-343-4010.
- Mail: Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528.

INSTRUCTIONS: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

DOCKET: For access to the docket to read background documents or comments received, please visit <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Marilyn Scott-Perez (202-475-3515), Privacy Officer, Commandant (CG-61), United States Coast Guard, Mail Stop 7710, Washington, D.C. 20593. For privacy questions, please contact: Karen L. Neuman, (202) 343-1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) United States Coast Guard proposes to update and reissue a current DHS system of records titled, DHS/United States Coast Guard-010 Physical Disability Evaluation System Files System of Records.” The DHS/USCG-010 Physical Disability Evaluation System Files System of Records will allow the Department of

Homeland Security/United States Coast Guard to collect and preserve the records regarding physical disability evaluation proceedings. As a result of a biennial review of the system, the system manager and address category has been updated to reflect the new mail stop.

Consistent with DHS's information-sharing mission, information stored in the DHS/USCG-010 Physical Disability Evaluation System Files System of Records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, information may be shared with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice. This updated system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records

maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/USCG-010 Physical Disability Evaluation System Files System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/USCG – 010

System name:

DHS/USCG-010 Physical Disability Evaluation System Files System of Records

Security classification:

Unclassified

System location:

Records are maintained at the United States Coast Guard Headquarters in Washington, D.C., and in field offices. Case Matter Management Tracking System (CMMT) is the information technology (IT) system in which records associated with this function are maintained.

Categories of individuals covered by the system:

All USCG active duty and reserve personnel who are referred for potential separation or retirement for physical disability.

Categories of records in the system:

Categories of records in this system include:

- Name;

- Social Security number (SSN) and/or Employee ID (EmpID);
- Informal Physical Evaluation Board files;
- Formal Physical Evaluation Board files;
- International Classification of Diseases code (ICD);
- Physical Review Council files;
- Physical Disability Appeal Board files; and
- Physical Disability Board of Review files.

Authority for maintenance of the system:

Departmental Regulations 5 U.S.C. 301; 14 U.S.C. 632; the Federal Records Act, 44 U.S.C. 3101; 10 U.S.C. Chapter 61.

Purpose(s):

The purpose of this system is to document physical disability evaluation proceedings and ensure equitable application of the provisions of Title 10, United States Code, Chapter 61, which relates to the separation or retirement of military personnel by reason of physical disability.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Note: For records of identity, diagnosis, prognosis, or treatment of any client/patient maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, irrespective of whether or when he/she ceases to be a client/patient, shall except as provided therein, be confidential

and be disclosed only for the purposes and under circumstances expressly authorized in 42 U.S.C. 290dd-2. This statute takes precedence over the Privacy Act of 1974 to the extent that disclosure is more limited. The routine uses set forth below do not apply to this information. However, access to the record by the individual to whom the record pertains is governed by the Privacy Act. These alcohol and drug abuse patient records may be disclosed:

- A. To medical personnel to the extent necessary to meet a bona fide medical emergency;
- B. To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation provided that employees are individually identified;
- C. To the employee's medical review official;
- D. To the administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating;
- E. To any supervisory or management official within the employee's agency having authority to take adverse personnel action against such employee; or
- F. Pursuant to the order of a court of competent jurisdiction when required by the United States Government to defend against any challenge against any adverse personnel action. See 42 U.S.C. 290dd, 290ee, and Public Law 100-71, Section 503(e).

Note: For all other records besides those noted above, this system of records contains individually identifiable health information. The Health Insurance Portability and Accountability Act of 1996, applies to most of such health information. Department

of Defense 6025.18-R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice. Therefore, routine uses outlined below may not apply to such protected health information.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorney, or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or

prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To the Department of Veterans Affairs for assistance in determining the eligibility of individuals for benefits administered by that agency, and available to the U.S. Public Health Service or the Department of Defense medical personnel in connection with the performance of their official duties.

I. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Disclosure to consumer reporting agencies:

None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

USCG stores records in this system electronically or on paper in secure facilities

in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, digital media.

Retrievability:

USCG retrieves records by name, social security number, employee identification number, command, date, and the diagnosis or International Classification of Diseases (ICD) code.

Safeguards:

USCG safeguards records in this system in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS imposes strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

Retention and disposal:

USCG transfers records to the National Personnel Records Center, Military Personnel Records NPRC (MPRC) three years after last activity. USCG destroys records 50 years from the date of the latest document in the record. (AUTH: NC1-26-82-5, Item 2a2).

System Manager and address:

Commander (CG-PSC), United States Coast Guard, 4200 Wilson Boulevard,
Mail Stop 7200, Arlington, VA 20598-7200.

Notification procedure:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Commandant (CG-611), United States Coast Guard, Mail Stop 7710, Washington, D.C. 20593. If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act (FOIA) Officer, Department of Homeland Security, 245 Murray Drive, S.W., Building 410, STOP-0655, Washington, D.C. 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, <http://www.dhs.gov/foia> or 1-866-431-0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

Record access procedures:

See “Notification procedure” above.

Contesting record procedures:

See “Notification procedure” above.

Record source categories:

Records are obtained from information in records developed through proceedings of administrative bodies listed in “Categories of records” above.

Exemptions claimed for the system:

None.

Dated: October 17, 2014.

Karen L. Neuman,

Chief Privacy Officer,

Department of Homeland Security.

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