

SUPPORTING STATEMENT
For
OMB 0704-0453, Application for Review by the Physical Disability Board of Review
(DD Form 294)

A. JUSTIFICATION

1. Need for Information Collection.

The Fiscal Year 2008 National Defense Authorization Act amended Title 10, United States Code by adding Section 1554a. That provision of law directs the Secretary of Defense to establish a board of review to review the disability determinations of individuals who were separated from the armed forces during the period beginning on September 11, 2001 and ending on December 31, 2009 due to unfitness for duty due to a medical condition with a disability rating of 20 percent disabled or less; and were found to be not eligible for retirement. On June 27, 2008, The Department of Defense published DODI 6040.44, which provides the guidance for this process.

The DD Form 294, "Application for Review by the Physical Disability Board of Review (PDBR) of the Rating Awarded Accompanying a Medical Separation from the Armed Forces of the United States" is designed to appropriately collect the information necessary to retrieve the medical separation and the Department of Veterans Affairs records (Atch 1).

2. Use of Information.

The form is the means by which former Service members can request this review.

3. Improved Information Technology.

The form will be publically accessible on the World Wide Web, but since there is a request to make a change which will provide significant legal entitlements the form must be signed and mailed to a central intake unit.

4. Efforts to Identify Duplication.

There is a legal requirement that the member either request or consent to, this review process. Accordingly, there must be some means to document that request or consent.

5. Methods Used to Minimize Burden on Small Entities.

The form will not impact small businesses.

6. Consequences of Not Collecting the Information.

If there is no method for former service members to request or consent to the review described above, the agency will not be in compliance with a statutory mandate.

7. Special Circumstances.

There are no special collection circumstances.

8. Agency 60-day Federal Register Notice and Consultations Outside the Agency and Notice of OMB Action (NOA).

The 60-day Federal Register Notice announcing this information collection, as required by 5 CFR 1320.8(d) was published in Vol. 76, No. 43, March 4, 2011, pages 12082-12084. No public comments were received in response to the notice. Consultations were conducted with designated representatives from each of the Services. The copy of the Federal Register Notice is attached (Atch 2). The Terms of the NOA state that the privacy act section of the DD Form 294 needed to address the blanket routine uses and provide a link to relevant documents. The routine uses section of the Privacy Act Statement for the attached DD Form 294 was revised to include such requirements.

9. Payments to Respondents.

No gifts or payments will be provided to respondents.

10. Assurance of Confidentiality.

Although there is no specific promise of confidentiality, all medical and personal information submitted will be safeguarded and only given to those with a need to know it to perform their agency duties. The information will be subject to the Privacy Act (5 USC 552(a)) as well as the Health Insurance Portability and Accountability Act (HIPAA) (Public Law 104-19).

11. Personally Identifiable Information, Sensitive Questions, Protection of the Information, PIA and SORNs.

PII: Respondents are advised that their data are For Official Use Only and will be maintained and used in strictest confidence in accordance with Federal law and regulations. Procedures are in place to protect the confidentiality of the information. The paper forms will be secured to protect PII in accordance with DoD regulations.

SSN: The SSN is required on the DD Form 294 to ensure the proper medical records from DoD Medal Treatment Facilities and the Department of Veterans Affairs are retrieved as well as the proper personnel records. It is used in conjunction with the information on the DD Form 294 to ensure the appropriate records are being reviewed to minimize fraudulent claims. If there is a change in the rating, Defense Finance and Accounting Services (DFAS) is notified to effect the pay change and currently the only mechanism to do so is the SSN. The SSN cannot be

truncated without the risk of misidentifying the former Service member, nor can it be masked since the form is used in a paper format. The DFAS and various military pay legacy systems whose disbursing systems interface with DFAS make payments to applicants who have their separation ratings changed.

Sensitive Questions: N/A

PIA: No PIA required; form is not used within an IT system.

SORN: Note: The existing SORN is numbered as F001 MRB A DoD, Physical Disability Board of Review Records and is accessed <http://edocket.access.gpo.gov/2011/pdf/2011-4930.pdf>, (Atch 3).

12. Estimates of Annual Response Burden and Labor Cost for Hour Burden to the Respondent for Collection of Information.

12a. Response of Burden:

(1) DD Form 294

Total annual respondents: 1,800

Frequency of respondents: 150/month

Burden per response: 45 minutes/form

Total burden hours: 1,350 hours/year

12b. Explanation of how burden was estimated.

It is extremely difficult to estimate the number of respondents since the agency will not send the form to anyone (except upon request) and does not solicit information, but is a means to apply for a review. It is also difficult if not impossible to estimate how many individuals will apply for a newly created review. Assuming a 15 percent appeal rate of disability decisions distributed evenly over the next five years, we anticipate 150 applications per month, 1800 per year, or 5400 in the three-year form approval period. At 45 minutes per form, that amounts to 1350 hours per year to fill these forms out. The form takes an estimated 45 minutes to complete as established by having approximately eight agency personnel who had not seen the form before fill it out as if they were potential respondents (applicants) and from Agency experience with other application forms (DD Form 293 and DD Form 149).

13. Estimate of other Cost Burden for the Respondent for Collection of Information.

a. Total Capital and Start-up Costs. None, this is an existing form that needed a modification to the Privacy Act statement.

b. Operation and Maintenance Costs. None, this form is available to Service members via the web and the information on the form is used by the PBDR to evaluate the case.

The costs that are incurred by the receipt of this form (application) are properly associated with, and allocated to, the costs of implementing the statutorily-mandated Physical Disability Review Board process. Stated differently, in accordance with the guidance provided for this entry, the costs of equipment and services are not included because they would be considered expended in the customary and usual business of processing applications.

14. Estimates of Costs to the Federal Government.

The form will be reviewed by several personnel. First it will be reviewed by administrative personnel for completeness and accuracy. That review will take an average of a half hour, which equates to 900 man-hours a year at \$ 27.00 an hour for a subtotal of \$24,300. It and its attachments and submissions will then be reviewed by a medical doctor as part of the PDDBR process which will take an average of one hour or a total of 1800 man-hours a year at \$67.00 an hour for a subtotal of \$120,600. Lastly, it will be reviewed by two executive personnel in the decision process a quarter hour each for a total of an additional 900 man-hours at a per hour (450 man-hours at \$67.00 per hour (GS 15) for \$30,150 ,and 450 man-hours at \$79.00 an hour (SES) for \$ 35,550) for a third subtotal of \$65,650. The total will be 3600 man-hours and \$216,400.

15. Changes in Burden:

Increase in number of respondents.

16. Publication Plans/Time Schedule.

There will be no published results from information collected from the information provided by these forms.

17. Approval Not to Display Expiration Date.

The OMB expiration date should not be displayed because this could lead potential applicants to reasonably, but erroneously, conclude that their applications will not be accepted after a three year period whereas the law does not support such a cutoff date.

18. Exceptions to the Certification Statement.

There are no exceptions to the certifications required in item 19, "Certification for Paperwork Reduction Act Submissions" of OMB Form 83-1.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not employed for the collection of this information.