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VIA THE FEDERAL RULEMAKING PORTAL

Ms. Samantha Deshommes
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue NW
Washington, DC 20529

**Re: OMB Control No. 1615-0053 – Comment on the Revision of a Currently
Approved Collection: Request for Certification of Military or Naval
Service**

Dear Ms. Deshommes:

The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) has invited the general public to comment upon this proposed revision of a currently approved collection of information, as published in the *Federal Register* on August 15, 2022, at 87 FR 50094. The Docket ID regarding this notice is USCIS-2007-0016. The OMB Control No. is 1615-0053.

The Form N-426, Request for Certification of Military and Naval Service, is required by USCIS for applicants applying under either Immigration & Nationality Act section 328 or Immigration & Nationality Act section 329. However, this form currently does not meet the needs of the users and is poorly designed. Accordingly, we welcome the opportunity to comment.

We applaud USCIS for shortening the form to two (2) pages, adding a box for "Other" types of service besides "active duty" and "Selected Reserve" service. However, USCIS has an ongoing problem in that USCIS mechanically requires all military naturalization applicants to provide this form and to have it certified, even where the applicant is not on active duty and the form should not be required. Furthermore, although the instructions to the form state that "for each period of service, you must submit a copy of your DD Form 214, Certificate of Release or Discharge from Active Duty, NGB Form 22, National Guard Report of Separation and Record of Service, or

other official discharge document,” USCIS currently refuses to accept any documents other than a DD214 or NGB Form 22 in conjunction with processing this form. USCIS has refused to process dozens of military naturalization applications on the grounds that the applicant failed to produce these two specific forms. USCIS should remove the reference to specific forms from the instructions, as described below in our comments.

Comment #1: The form N-426 should be eliminated entirely or made optional because the requirement to provide this form when filing for military naturalization has proven to be an obstacle to the filing of military naturalization applications. The requirement to provide this form seriously impedes military members and veterans from filing for naturalization and impedes the processing of such applications. The form is poorly designed and the instructions are confusing. Moreover, as of 2017, DOD requires an officer in the rank of O-6 to certify the form, and most applicants find it difficult to get an officer of such a high rank to certify the form,¹ let alone certify it properly or promptly. Moreover, the form is unnecessary because military naturalization applicants typically have military-issued documentation of their service and so requiring them to also provide a separate, confusing form is unnecessary.

Comment #2: If USCIS insists on requiring this form for applicants applying under INA 328, the form and its instructions must be redesigned to allow such applicants to get the form certified. As currently designed, the Form N426 only allows applicants to use the Form to apply under section 329, because it only allows certification of two types of service—active duty and Selected Reserve service. Other types of duty such as inactive Reserve service will qualify an applicant under INA 328, but the current N426 form does not allow a person to claim those types of service. The new proposed form is an improvement in that there is a new box “Other” that the applicant can check—but in practice USCIS only allows the applicant to provide two types of evidence, a NGB-22 form or a DD-214. Applicants who are Reservists or who are not on active duty will not have any NGB-22 or a DD-214 to cover their periods of service.

Comment #3: USCIS is constantly demanding that applicants provide a DD-214 or NGB-22 for all periods of service. This demand by USCIS evidences the agency’s ignorance of what a DD-214 is. A DD-214 is a discharge from active duty. Persons who have not been discharged from active duty do not have this form. Moreover, most Reservists do not have any DD-214 to cover most periods of their service, because the

¹ The 60-Day Notice incorrectly states that “The Department of Defense (DOD) record centers or personnel offices verify and certify the applicant’s military or naval service information” This is no longer correct. As a result of DOD instructions issued in 2017 by the DOD’s Office of the Undersecretary of Defense for Personnel & Readiness, Ms. Stephanie Plicher Miller, only an officer in the rank of O-6 is authorized to certify this form, and most applicants—particularly those who are no longer on active duty—have no ready access to such an officer. DOD has no official process or procedure for certifying the form for those applicants who are no longer on active duty or in the Selected Reserve of the Ready Reserve, and has no procedure at all to certify the form for those applying under INA 328.

military does not issue DD-214s routinely to Reservists. A NGB-22 form is only given to National Guard members, not to Reservists who have not served in the National Guard.

Here is a link to the Veteran Administration (VA) list of documents that can be used to prove military service and the characterization of the service. Please note, again, that the DD214 and the NGB 22 are the only ones that USCIS appears to accept for military naturalization purposes, which is wrong. This has been a longstanding problem for military members trying to naturalize, and USCIS should correct its error. USCIS should accept any and all of these documents, not just the DD214 and the NGB 22:

https://www.cem.va.gov/hmm/discharge_documents.asp

| Form | Title |
|----------------|--|
| DA 1569 | Transcript of Military Record |
| DD 2A | Armed Forces Identification Card (Active) |
| DD 2AF | Armed Forces Identification Card (Active) |
| DD 2CG | Armed Forces Identification Card (Active) |
| DD 2MC | Armed Forces Identification Card (Active) |
| DD 2N | Armed Forces Identification Card (Active) |
| DD 2NOAA | Armed Forces Identification Card (Active) |
| DD 2 (Retired) | US Uniformed Services Identification Card |
| DD 13 | Statement of Service |
| DD 214 | Certificate of Release or Discharge from Active Duty |
| DD 217 | Discharge Certificate |
| DD 256A | Honorable Discharge Certificate |
| DD 256AF | Honorable Discharge Certificate |
| DD 256CG | Honorable Discharge Certificate |
| DD 256MC | Honorable Discharge Certificate |
| DD 256N | Honorable Discharge Certificate |
| DD 257A | General Discharge Certificate |
| DD 257AF | General Discharge Certificate |
| DD 257CG | General Discharge Certificate |
| DD 257MC | General Discharge Certificate |
| DD 257N | General Discharge Certificate |
| DD 303 | Certificate in Lieu of Lost or Destroyed Discharge |

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|---------------------------------|---|
| DD 303AF | Certificate in Lieu of Lost or Destroyed Discharge |
| DD 303CG | Certificate in Lieu of Lost or Destroyed Discharge |
| DD 303MC | Certificate in Lieu of Lost or Destroyed Discharge |
| DD 303N | Certificate in Lieu of Lost or Destroyed Discharge |
| DD 1300 | Report of Casualty |
| ADJ 545 | Discharge Certificate |
| Army DS ODF | Honorable Discharge from the United States Army |
| AGO 525 | Discharge Certificate |
| AGO 755 | Discharge Certificate |
| AGO 01252 | Discharge Certificate |
| AGO 01254 | Transcript of Military Record |
| AGO 01502 | Discharge Certificate |
| WD AGO 53 | Enlisted Record and Report of Separation Honorable Discharge |
| WD AGO 53-55 | Enlisted Record and Report of Separation Honorable Discharge |
| WD AGO 53-58 | Enlisted Record and Report of Separation General Discharge |
| WD AGO 53-90 | Certificate of Service |
| WD AGO 53-98 | Military Record and Report of Separation Certificate of Service |
| WD AGO 55 | Honorable Discharge from The Army of the United States |
| WD AGO 280 | Certificate of Service, AVS |
| WD AGO 525 | Honorable Discharge from the United States Army |
| WD AGO 755 | Honorable Discharge, Women's Army Auxiliary Corps |
| WD AGO 0729 | Honorable Discharge from Army of the United States of America |
| WD AGO 01502 | Certificate in Lieu of Lost or Destroyed Discharge Certificate |
| WD AGO 01504 | Discharge Certificate |
| Bureau of Investigation No. 6 | Discharge Certificate |
| Bureau of Investigation No. 53 | Discharge Certificate |
| Bureau of Investigation No. 118 | Discharge Certificate |
| Bureau of Investigation No. 213 | Discharge from U. S. Naval Reserve Force |

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|---------------------|--|
| Form No. 6, U.S.N. | Discharge Certificate |
| Navy (No number) | War Service Certificate |
| NAVCG-553 | Notice of Separation from U.S. Coast Guard |
| NAVCG-2510 | Honorable Discharge, U.S. Coast Guard |
| NAVMC-455 | U.S. Marine Corps Certificate of Service, In Lieu of Lost or Destroyed Discharge Certificate |
| NAVMC 70-PD | Honorable Discharge, U.S. Marine Corps |
| NAVMC 78-PD | U.S. Marine Corps Report of Separation |
| NMC 258 A&I | Discharge Certificate |
| NMC 2571 A&I | Honorable Discharge, U.S. Marine Corps |
| NAVPER5-553 | Notice of Separation from U.S. Naval Service |
| NAVPER5-563 | Navy Discharge-Notice of Separation from U.S. Naval Service |
| NAVPER5-566 | Standard Statement of Service |
| NAVPER5-660 | Honorable Discharge from U.S. Navy |
| NAVPER5-661 | Certificate of Discharge, U.S. Naval Service |
| NAVPER5-663B | Discharge Certificate |
| NGB 22 | Report of Separation and Record of Service, Departments of the Army and the Air Force, National Guard Bureau |
| NOAA Form 56-16 | Report of Transfer or Discharge |
| PHS Form 1867 | Statement of Service – Verification of Status of Commissioned Officers of the U.S. Public Health Service |
| VA Adjudication 545 | Summary of Record of Active Service |
| VA 3101 | Official Retirement Order |
| | Official Retirement Register |
| | Reserve Retirement Eligibility Benefits Letter |
| | Verification of Service letter from the VA |

Moreover, the forms used to document military service are constantly changing. USCIS's insistence that applicants provide a DD214 or NGB 22 for every period of military service is both wrongheaded and outdated, given the constantly evolving documentation issued by the U.S. Armed Forces. USCIS should accept any and all documentation that the VA accepts, rather than insisting only on the DD214 or NGB 22.

Comment #4: The "other" box should be on its own line and allow for an actual explanation of the type of service, i.e., Delayed Entry Program, Inactive Reserve, Individual Ready Reserve, Retired Reserve, etc.

Comment #5: The proposed new instructions for Form N426 are incorrect and should be revised. The proposed instructions state: "Persons who are currently serving honorably in the U.S. Armed Forces are granted certain exemptions from the general requirements for naturalization." This sentence is incorrect. An accurate sentence would be "Persons who are currently serving honorably in the U.S. Armed Forces or who have served honorably in the past are granted certain exemptions from the general requirements for naturalization."

Comment #6. USCIS should stop requiring handwritten signatures and dates on this form. The requirement to provide handwritten dates and signatures on this form is burdensome on applicants. Modern day practice in the military is to accept electronic signatures and dates on documents, but USCIS refuses to allow this modern practice. Accordingly, applicants are forced to print the document repeatedly, sign it with a pen and ink, and scan it to the officer who can certify it, who is also forced to print the document, sign it with a pen and ink, and scan it back to the applicant. This requirement by USCIS wastes time and paper and is not in accordance with modern technology. USCIS should allow electronic signatures and typed dates.

Comment #7: USCIS's statement of the time required to complete this form is inaccurate. USCIS states that the paperwork burden for this form is 30 minutes. Our estimate is that the paperwork burden for this form averages 5-6 hours, which includes the time for the applicant to prepare the applicant portion of the form, print the form, sign it with a pen and ink, scan it, find an officer of the rank of O-6 to sign it, send it to the officer, have the officer print and sign it, have the officer scan it back to the applicant, have the applicant correct the mistakes made by the officer and redo the form again, and then submit the form to USCIS. Moreover, this time estimate does not include rejections by USCIS, which are common and occur in a very large number of cases. USCIS should be asked to provide data on how often it rejects the form as submitted by applicants, and the time estimate should include the time spent in responding to such rejections.

Very truly yours,

Cascadia Cross Border Law

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