

to warrant the preparation of a Federalism assessment.

#### *Paperwork Reduction Act*

This final rule does not have any information collection requirements subject to review under the Paperwork Reduction Act.

#### **Lists of Subjects in 33 CFR Part 52**

Administrative practice and procedures, Archives and records, Military personnel.

Issued this 14th day of February 2003 at Washington, DC.

**Norman Y. Mineta,**

*Secretary of Transportation.*

For the reasons set forth in the preamble, the Department revises 33 CFR Part 52 to read as follows:

### **PART 52—BOARD FOR CORRECTION OF MILITARY RECORDS OF THE COAST GUARD**

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**Authority:** 10 U.S.C. 1552; 14 U.S.C. 425.

#### **Subpart A—Purpose and Authority**

##### **§ 52.1 Purpose.**

This part establishes the procedure for application for correction of military records of the Coast Guard, for consideration of applications by the Department of Transportation Board for Correction of Military Records of the Coast Guard (hereinafter “the Board”), and for settling claims or determining monetary benefits.

##### **§ 52.2 Authority.**

(a) The Secretary of Transportation, acting through boards of civilians, is authorized to correct any military record of the Coast Guard when the Secretary considers it necessary to correct an error or remove an injustice. 10 U.S.C. 1552. The Secretary shall ensure that final action on a complete application for correction is taken within 10 months of its receipt.

14 U.S.C. 425.

(b) Corrections made under this authority are final and conclusive on all officers of the Government except when procured by fraud. 10 U.S.C. 1552(a)(4).

#### **Subpart B—Establishment, Function, and Jurisdiction of Board**

##### **§ 52.11 Establishment and composition.**

(a) Pursuant to 10 U.S.C. 1552, the Board for Correction of Military Records of the Coast Guard is established in the Office of the Secretary of Transportation.

(b) The Secretary appoints a panel of civilian officers or employees of the Department of Transportation to serve as members of the Board, and designates one such member to serve as Chair of the Board. The Chair designates members from this panel to serve as the Board for each case requiring consideration by a Board. The Board consists of three members, and two members present constitute a quorum of the Board.

(c) The Deputy Chair of the Board exercises the functions prescribed by these regulations and such other duties as may be assigned by the Chair.

##### **§ 52.12 Function.**

The function of the Board is to consider all applications properly before it, together with all pertinent military records and any submission received from the Coast Guard or other Government office under subpart E, to determine:

(a) Whether an error has been made in the applicant's Coast Guard military record, whether the applicant has suffered an error or injustice as the result of an omission or commission in his or her record, or whether the applicant has suffered some manifest injustice in the treatment accorded him or her; and

(b) Whether the Board finds it necessary to change a military record to correct an error or remove an injustice.

##### **§ 52.13 Jurisdiction.**

(a) The Board has jurisdiction to review and determine all matters properly brought before it, consistent with existing law and such directives as may be issued by the Secretary.

(b) No application shall be considered by the Board until the applicant has exhausted all effective administrative remedies afforded under existing law or regulations, and such legal remedies as the Board may determine are practical, appropriate, and available to the applicant.

#### **Subpart C—General Provisions Regarding Applications**

##### **§ 52.21 General requirements.**

(a) An application for correction of a Coast Guard record shall be submitted on DD Form 149 (Application for Correction of Military or Naval Record) or an exact copy thereof, and shall be addressed to: Chair, Board for Correction of Military Records of the Coast Guard (C-60), United States Department of Transportation, Washington, DC 20590. Forms and explanatory material may be obtained from the Chair of the Board.

(b) The application shall be signed by the person alleging error or injustice in his or her military record, except that an application may be signed by a family member or legal representative with respect to the record of a deceased, incapacitated, or missing person. The family member or legal representative must submit proof of his or her proper interest with the application.

(c) No application shall be docketed or processed until it is complete. An