pursuant to § 52.82(c), states that the application involves a significant issue of Coast Guard policy, the Board may approve an application for the correction of military records in any of the following categories:

(i) An application to correct an enlistment or reenlistment contract or agreement to extend an enlistment for the purpose of effecting or increasing entitlement to a Selective Reenlistment Bonus;

(ii) An application to modify an election to participate in the Survivor Benefit Plan;

(iii) An application to change a reenlistment eligibility code;

(iv) An application to correct the character of, or reason for, a discharge or separation.

(3) The Board may approve any application for correction of military records not falling into one of the categories in paragraph (a)(2) of this section, if the Chief Counsel of the Coast Guard recommends the same or substantially same relief as that requested by the applicant.

(b) Except in cases where the Board takes final action under paragraph (a) of this section, the Board shall forward the record of its proceedings to the Secretary for approval, disapproval, or return for additional consideration. After taking final action, the Secretary shall return the record to the Board for disposition.

§ 52.65 Orders.

(a) The Board shall issue such orders or directives as may be necessary to carry out a final action.

(b) The Board may ask the Coast Guard to submit a written report to the Board specifying the action taken and the date thereof with respect to any final action.

(c) Unless doing so is likely to nullify the relief granted, copies of the final decision shall be placed in the military record of the applicant.

§ 52.66 Notification.

Subject to Department of Transportation regulations, the Board shall transmit to the applicant a copy of a decision. The applicant may inspect the record of proceedings at Board offices.

§ 52.67 Reconsideration.

(a) Reconsideration of an application for correction of a military record shall occur if an applicant requests it and the request meets the requirements set forth in paragraph (a)(1) or (a)(2) of this section.

(1) An applicant presents evidence or information that was not previously considered by the Board that could result in a determination other than that originally made. Evidence or information may only be considered if it could not have been presented to the Board prior to its original determination if the applicant had exercised reasonable diligence; or

(2) An applicant presents evidence or information that the Board, or the Secretary as the case may be, committed legal or factual error in the original determination that could have resulted in a determination other than that originally made.

(b) The Chairman shall docket a request for reconsideration of a final decision if it meets the requirements of paragraph (a)(1) or (a)(2) of this section. If neither of these requirements is met, the Chairman shall not docket such request.

(c) The Board shall consider each application for reconsideration that has been docketed. None of the Board members who considered an applicant's original application for correction shall participate in the consideration of that applicant's application for reconsideration.

(d) Action by the Board on a docketed application for reconsideration is subject to § 52.64(b).

(e) An applicant's request for reconsideration must be filed within two years after the issuance of a final decision, except as otherwise required by law. If the Chairman dockets an applicant's request for reconsideration, the two-year requirement may be waived if the Board finds that it would be in the interest of justice to consider the request despite its untimeliness.

[OST Doc. No. OST–95–878, 61 FR 24235, May 14, 1996]

§ 52.68 Time limit for final action.

Final action on an application for correction of a military record shall be

taken within 10 months after all the elements of a complete application, as defined in § 52.21(c), have been received by the Board.

Subpart H—Payment of Claims and Implementation of Orders

§ 52.71 Authority to pay.

(a) The Coast Guard is authorized to pay the claims of any person as the result of any action heretofore or hereafter taken under 10 U.S.C. 1552.

(b) The Coast Guard is not authorized to pay any claim heretofore compensated by Congress through enactment of private law, or to pay any amount as compensation for any benefit to which the claimant might subsequently become entitled under the laws and regulations administered by the Secretary of Veterans Affairs.

§ 52.72 Procedures.

(a) In each case the Board transmits a copy of its decision or the Secretary's decision to the proper Coast Guard authority for determination of monetary benefits due, if any, as a result of the action of the Board and for corrections of the military record ordered by the Board.

(b) Upon request, the claimant is required to furnish any information necessary to determine the proper parties to the claim for payment under applicable provisions of law.

(c) Appropriate records shall be examined in light of the Board's decision to determine all amounts which may be due. Amounts found due are subject, to the extent authorized by law or regulations, to setoff in the amount of existing indebtedness to the Government arising from Coast Guard service.

(d) At the time of payment, the claimant shall be advised as to the nature and amount of the various benefits represented by the total settlement, and of the fact that acceptance of the settlement constitutes a complete release by the claimant of any claim against the United States on account of the correction of record ordered by the Board.

§ 52.73 Interpretation.

If the intent or import of the final decision is not clear to the Coast Guard or if the Coast Guard believes that executing all or part of the order in the final decision is beyond the Coast Guard's authority, the final decision shall be returned to the Board for clarification or technical amendment.

§ 52.74 Report of settlement.

When payment is made pursuant to the order of the Board, the Board may request the Coast Guard to notify it of the name of any person to whom payment was made and of the amount of the payment.

Subpart I—Miscellaneous Provisions

§ 52.81 Assistance.

The Board may request such advice, opinion, assistance, or use of the facilities of any other bureau, board, or office of the Department of Transportation as the Board deems necessary.

§ 52.82 Submissions sent to or received from the Coast Guard.

(a) The Board shall transmit to the Chief Counsel of the Coast Guard a copy of each application for relief submitted under subpart C of this part that has not been denied pursuant to § 52.32, together with any briefs, memoranda, and documentary evidence submitted or obtained in the case.

(b) The Board may request the Coast Guard to submit any additional pertinent facts not disclosed in an application and its supporting documents.

(c) The Chief Counsel may forward to the Board the written views of the Coast Guard on any case before the Board.

(d) A copy of each submission made by the Coast Guard under this section shall be transmitted to the Board, which shall promptly send a copy to the applicant involved. Each applicant has 15 days, from the date the Board sends the submission, to rebut or respond to such submission.

(e) Information and views furnished by the Coast Guard under this section shall not be binding upon the Board, but shall be considered by the Board along with all other information and material submitted in the particular case.