addressed to the attention of "Office of District Banks;" one copy to the attention of "Office of General Counsel, Corporate and Securities Division;" and one copy to the attention of "Office of Regulatory Activities, Corporate Activities Section." Also, one copy shall be sent to the appropriate Principal Supervisory Agent. The Principal Supervisory Agent shall thereupon forward to the Office of District Banks his record or a copy thereof used as a basis for his determination together with any other information believed by the Principal Supervisory Agent to be helpful in reviewing his determination. If an applicant does not file a request for review within the time permitted under this section, any objection to the initial determination by the Principal Supervisory Agent is waived. A timely filing of a request for review with the Office of District Banks in accordance with the provisions of this section shall be mandatory for securing judicial review of an initial determination. With the concurrence of the Executive Director of the Office of Regulatory Activities, or his or her designee, and the General Counsel, or his or her designee, the Director of the Office of District Banks, or his or her designee shall decide each appeal from a denial of an application under 12 CFR 563.8–1 by a Principal Supervisory Agent or the inclusion of any non-standard condition(s) not set forth in paragraph (k) of this section. With the concurrence of the Executive Director of the Office of Regulatory Activities, or his or her designee, and the General Counsel, or his or her designee, the Director of the Office of District Banks, or his or her designee, shall prepare and send to the applicant a written response to the applicant's request for review. Such written response shall be deemed to be a final agency action by the Corporation. If the Director of the Office of District Banks, or his or her designee, in his or her sole discretion is of the opinion that the appeal involves policy considerations that warrant resolution by the Corporation, the Director, or his or her designee, shall submit the application to the Corporation for its determination. In the event that the Director, or his or her designee, fails to obtain the concurrence of the Executive Director of the Office of Regulatory Activities, or his or her designee, and the General Counsel, or his or her designee, the Director, or his or her designee, shall present the matter to the Corporation for its determination.

(k) *Conditions of approval.* Approvals of subordinated debt applications shall be subject to the following conditions:

(1) Where securities are to be sold pursuant to an offering circular required to be filed with the Corporation pursuant to 12 CFR 563g.2, and where such offering circular has not yet been declared effective prior to the date of approval of the subordinated debt application, the offering circular in the form declared effective shall not disclose any material adverse information concerning the applicant's business, operations, prospects, or financial condition not disclosed in the latest form of offering circular filed as an exhibit to the application;

(2) The applicant shall submit to the Supervisory Agent, no later than 30 days from the completion of the sale of the securities, evidence of compliance with all applicable laws and regulations in connection with the offering, issuance, and sale of the subordinated debt securities;

(3) The applicant shall submit to the Supervisory Agent no later than 30 days from the completion of the sale of the securities, the report(s) required by § 563.8–1(h) of the Insurance Regulations and the following additional items:

(i) Three copies of an executed form of the securities issued pursuant to the subject application and a copy of any related agreement or indenture governing the issuance of the securities; and

(ii) A certificate from the principal executive officer of the applicant that states that to the best of his knowledge none of the securities issued pursuant to the subject application were sold to any institution whose accounts are insured by the FSLIC, or a corporate affiliate thereof, except as permitted by § 563.8–1 of the Insurance Regulations;

(4) That as of the date of approval, there have been no material changes with respect to the information disclosed in the application as submitted to the Principal Supervisory Agent;

(5) The applicant shall submit an application and receive prior written approval of the Principal Supervisory Agent for any post-approval amendment to the subordinated debt securities or any related indenture if:

(i) The proposed amendment modifies or is inconsistent with any provision of the securities, or the indenture, which is required to be included therein by the regulations as may then be in effect or would result in a transfer of risk to the applicant or the FSLIC; and

(ii) All or a portion of the proceeds from the issuance and sale of the securities would continue to be included in the regulatory capital of the applicant following adoption of the amendment;

(6) The applicant shall submit to the Supervisory Agent promptly after execution one copy of each post-approval amendment to the securities or the related indenture and, if prior approval of such amendment was not obtained, shall also state the reason(s) such prior approval was not required; and

(7) Before any offers or sales of the subordinated debt are made on the premises of the institution or its affiliates, the applicant shall submit to the Supervisory Agent a set of policies and procedures for such sale of subordinated debt satisfactory to the Supervisory Agent.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89–19277 Filed 8–17–89; 8:45am]

BILLING CODE 6720-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 122

RIN 1076–AB51

Management of Osage Judgment Funds for Education

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends part 122 of 25 CFR, Management of Osage Judgment Funds for Education and Socioeconomic Programs, by excluding all references to the "socioeconomic" provisions. At the request of the Osage Indian Tribe, on October 30, 1984, Congress enacted legislation which eliminated the numerous requests for an interpretation of the socioeconomic provision. In addition, this action assures the availability of funds for financial assistance to eligible Osage tribal members pursuing post secondary education degrees. Part 122 is retitled "Management of Osage Judgment Funds for Education."

EFFECTIVE DATE: September 18, 1989.

FOR FURTHER INFORMATION CONTACT: Reginald Rodriguez, Bureau of Indian Affairs, Office of Indian Education Programs, Main Interior Building, Mail Stop Room 3512, 18th & C Streets, NW., Washington, DC 20240, (202) 343–4871.

SUPPLEMENTARY INFORMATION: The Department of the Interior has determined that this document is not a major rule and does not require regulatory analysis under Executive

Order 12291. This rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969. This regulation does not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These regulations will not have an impact on small entities as defined in the Act.

The primary author of this document is Reginald Rodriguez, Education Specialist, Post Secondary Education, Office of Indian Education Programs, Bureau of Indian Affairs, (202) 343–4871.

On October 30, 1984, Pub. L. 98–605 was enacted to clarify and to make technical amendments to the various acts pertaining to the Osage Indians. The amendment deletes the "socioeconomic" provisions.

Because of the time expended by the Osage Tribal Education Committee (OTEC) to resolve the numerous complaints and requests for interpretation of the "socioeconomic" provision, along with the limited availability of funds for both the "socioeconomic" programs and the educational demands of tribal members, the "socioeconomic" provision in § 122.7 of 25 CFR part 122, Management of Osage Judgment Funds for Education and Socioeconomic Programs, is removed. This removal will provide the Osage Tribal Education Committee the opportunity to concentrate its energies and monies on education, which the Osage Tribal members have established as a principal priority. Other deletions were made; i.e., the definitions of the point system and the ranking of applications. However, the Osage Tribal Education Committee is minimally obligated to obtain approval from the Assistant Secretary—Indian Affairs for proposed budget expenditures and for the overall program plan of operation.

On June 30, 1988, the Bureau of Indian Affairs published a proposed rule at 53 FR 24732, and the Bureau requested that interested persons submit written comments, suggestions, or objections on or before August 29, 1988. One commenter submitted three written recommendations. These recommendations reference § 122.6, Duties of the Osage Tribal Education Committee. The following is a summary of the recommended comments and the Bureau's responses are noted as follows:

Section 122.6 Duties of the Osage Tribal Education Committee

Comments. The commenter requested that this part limit the funding period for the pursuit of a Master's degree to "* * * six semesters, not to include summer sessions, * * *", and that Doctoral program candidates be considered on a case by case basis by the Osage Tribal Education Committee. In addition, it was recommended that the unused first and second semester funds be redistributed for summer school.

Response. The Bureau recommends that advanced degrees, i.e., Masters and Doctoral programs, be funded at the discretion of the Osage Tribal Education Committee contingent upon the availability of funds on a case by case basis; however, because the Bureau wishes to support tribal autonomy, the Bureau also declines to insert into the regulations the recommendation for the redistribution for summer school of unused first and second semester funds. This will remain a committee choice. The Bureau, therefore, has not incorporated the Commenter's recommendations.

Information Collection Statement

The information collection requirements contained in §§ 122.6 and 122.9 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1078–0098 and 1076–0106, respectively.

List of Subjects in 25 CFR Part 122

Indian-claims, Indian-education, and Indian-judgment funds.

For the reasons set out in the preamble, title 25, chapter I, part 122 of the Code of Federal regulations is revised to read as follows:

PART 122—MANAGEMENT OF OSAGE JUDGMENT FUNDS FOR EDUCATION

Authority: 86 Stat. 1295, 98 Stat. 3103 (25 U.S.C. 331 note).

§ 122.1 Purpose and scope.

(a) The purpose of this part is to set forth procedures and guidelines to govern the use of authorized funds in education programs for the benefit of Osage Tribal members, along with application requirements and procedures used by those eligible persons.

(b) The Osage Tribe by act of Congress, October 27, 1972 (25 U.S.C. 883, 86 Stat. 12950, as amended by Pub. L. 98–605) on October 30, 1984, provides that $1 million, together with other funds which revert to the Osage Tribe, may be advanced, expended, invested, or reinvested for the purpose of financing an education program of benefit to the Osage Tribe of Indians of Oklahoma, with said program to be administered as authorized by the Secretary of the Interior.

§ 122.2 Definitions.

Act means Osage Tribe by Act of Congress, October 27, 1972 (25 U.S.C. 883, 86 Stat. 1295), as amended by Pub. L. 98–605.

Allottee means a person whose name appears on the roll of Osage Tribe of Indians approved by the Secretary of the Interior on April 11, 1908, pursuant to the Act of June 28, 1906 (34 Stat. 539).

Assistant Secretary means the Assistant Secretary—Indian Affairs.

Osage Tribal Education Committee means the committee selected to administer the provisions of this part as specified by § 122.6.

Reverted funds means the unpaid portions of the per capita distribution fund, as provided by the Act, which were not distributed because the funds were:

(1) Unclaimed within the period specified by the Act; or

(2) For an amount totaling less than $20 due an individual from one or more shares of one or more Osage allottees.

Secretary means the Secretary of the Department of the Interior or his/her authorized representative.

§ 122.3 Information collection.

(a) The information collection requirements contained in §§ 122.6 and 122.9 have been approved by the Office of Management and Budget under U.S.C. 3501 *et seq.* and assigned clearance numbers 1076–0098 and 1076–0106, respectively. The information collected in § 122.6 is used to determine the eligibility of Osage Indian student applicants for educational assistance grants. The information collected in § 122.9 provides summary review for program evaluation and program planning. Response to the information collections is required to obtain a benefit in accordance with 25 U.S.C. 883.

(b) Public reporting burden for this information collection is estimated to average 30 minutes per response.

including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Bureau of Indian Affairs, Information Collection Clearance Officer, Room 337 SIB, 18th & C Streets, NW., Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1076-0106), Washington DC 20503.

§ 122.4 Establishment of the Osage Tribal Education Committee.

(a) The Osage Tribe, to maintain its right of Tribal autonomy, shall, at the direction of the Bureau of Indian Affairs, establish the Osage Tribal Education Committee (OTEC) to fulfill the responsibilities and provisions of this part as set out in § 122.6.

(b) This committee shall be composed of seven (7) members. Five (5) of the members shall be of Osage blood or descendents of Osage, and two (2) from the education staff of the Bureau of Indian Affairs.

(1) Of the five Osage members, at least three shall be legal residents and/or live within a 20-mile radius of one of the three Osage Indian villages. Of these, at least one member shall reside within the specified radius of the Pawhuska Indian village; at least one member shall reside within the specified radius of the Hominy Indian village; and at least one member shall reside within the specified radius of the Greyhorse Indian village.

(2) The two remaining Osage committee members will be members at large.

§ 122.5 Selection/nomination process for committee members.

(a) Selection of the five (5) OTEC members shall be made by the Assistant Secretary in accordance with the following:

(1) Any adult person of Osage Indian blood who is an allottee or a descendant of an allottee is eligible to serve on the Osage Tribal Education Committee.

(2) Nominees for committee membership shall include a brief statement of interest and qualifications for serving on the committee.

(b) Nominations may be made by any Osage organization, including the Osage village communities of Greyhorse, Hominy and Pawhuska, by requesting its candidates to follow procedures outlined in paragraph (a)(2) of this section.

(c) Nominations shall be delivered by registered mail to the following address: Osage Tribal Education Committee, c/o Area Education Programs Administrator, Bureau of Indian Affairs, Muskogee Area Office—Room 152, 5th & W. Okmulgee, Muskogee, Oklahoma 74401.

(d) A Nominee Selection Committee composed of OTEC members so designated by the Assistant Secretary will review all nominations. Upon completion of this process, the Nominee Selection Committee will forward its recommendations for final consideration to the Assistant Secretary.

(e) Each member shall be sworn in for a four year term. At the discretion of the Assistant Secretary, members may succeed themselves with a recommendation for reappointment from the Nominee Selection Committee.

(f) The Assistant Secretary may, until a vacancy is filled, appoint an individual to serve for a temporary period not to exceed 120 days.

§ 122.6 Duties of the Osage Tribal Education Committee.

(a) For the purpose of providing financial assistance to eligible Osage applicants for educational assistance, the Osage Tribal Education Committee shall maintain an office and retain all official records at the Bureau of Indian Affairs offices located at the Federal Building, Muskogee, Oklahoma.

(b) The Osage Tribal Education Committee shall be responsible for implementing an overall plan of operation consistent with the policy of Indian self-determination which incorporates a systematic sequential process whereby all student applications for financial aid are rated and ranked simultaneously to enable a fair distribution of available funds.

(1) All applicants shall be rated by a point system appropriate to applications for education assistance. After all applications are rated, the Osage Tribal Education Committee will rank the applications in a descending order for award purposes. No awards shall be made until all applications are rated against the point system.

(2) Monetary awards shall be for fixed amounts as determined by the Osage Tribal Education Committee. The fixed amounts shall be itemized in the committee's annual budgetary request, and the monetary award amounts shall be consistent with the fixed amounts itemized in the approved budget.

(3) Payment of the monetary awards shall be made directly to the student, with half of the amount payable on or before September 15 and the second half payable on or before February 15, provided the student is successfully enrolled in an accredited institution of higher education and meeting the institution's requirement for passing work.

(4) No student will be funded beyond 10 semesters or five academic years, not to include summer sessions, nor shall any student with a baccalaureate degree be funded for an additional undergraduate degree.

§ 122.7 Budget.

(a) By August 1 of each year, the Osage Tribal Education Committee will submit a proposed budget to the Assistant Secretary or to his/her designated representative for formal approval. Unless the Assistant Secretary or his/her designated representative informs the committee in writing of budget restrictions by September 1, the proposed budget is considered to be accepted.

(b) The investment principal, composed of the one million dollars appropriated by the Act and reverted funds, must be invested in a federally insured banking or savings institution or invested in obligations of the Federal Government. There are no provisions in this part which shall limit the right of the Osage Tribal Education Committee to withdraw interest earned from the investment principal; however, expenditures shall be made against only the interest generated from investment principal and reverted funds.

(c) All funds deposited will accumulate interest at a rate not less than that generally available for similar funds deposited at the same banking or savings institution or invested in the same obligations of the United States Government for the same period of time.

§ 122.8 Administrative costs for management of the fund.

Funds available for expenditures may be used by the Osage Tribal Education Committee in the performance of its duties and responsibilities. Recordkeeping is required and proposed expenditures are to be attached with the August 1 proposed annual budget to the Assistant Secretary or his/her designated representative.

§ 122.9 Annual Report.

The Osage Tribal Education Committee shall submit an annual report on OMB approved Form 1076-0106, Higher Education Annual Report, to the Assistant Secretary or his/her designated representative on or before November 1, for the preceding 12 month period.

§ 122.10 Appeal.

The procedure for appealing any decision regarding the awarding of funds under this part shall be made in accordance with 25 CFR Part 2, Appeals from Administrative Action.

§ 122.11 Applicability.

These regulations shall cease upon determination of the legal and appropriate body to administer the fund and upon the establishment of succeeding regulations.

W. P. Ragsdale,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 89-19340 Filed 8-17-89; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF JUSTICE

28 CFR Part 74

[Order No. 1359-89]

Redress Provisions for Persons of Japanese Ancestry

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice hereby adopts rules for the enforcement of section 105 of the Civil Liberties Act of 1988, Pub. L. 100-383, 102 Stat. 903, codified at 50 U.S.C. app. 1989b-4, which authorizes the Attorney General to identify, locate, and when funds are appropriated, make payments of $20,000 to eligible individuals of Japanese ancestry who were evacuated, relocated or interned during World War II.

EFFECTIVE DATE: August 18, 1989.

ADDRESSES: Comments received on the Notice of Proposed Rulemaking will remain available for public inspection at the Office of Redress Administration facility at 1100 Connecticut Avenue NW., Washington, DC in Suite 825 from 9:30 a.m. to 5:30 p.m., Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT: Valerie O'Brian, Office of Redress Administration, Civil Rights Division, U.S. Department of Justice, Washington, DC 20530; (202) 633-5119 (Voice) or (202) 786-5986 (TDD). These are not toll free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

The Civil Liberties Act of 1988 enacts into law the recommendations of the Commission on Wartime Relocation and Internment of Civilians established by Congress in 1980 (Pub. L. 96-317). This bipartisan Commission was established to review the facts and circumstances surrounding Executive Order 9066, issued February 19, 1942, and the impact of that Executive Order on American citizens and permanent resident aliens of Japanese ancestry; to review directives of United States military forces requiring the relocation, and in some cases, detention in internment camps of these American citizens and permanent resident aliens; and to recommend appropriate remedies. The Commission submitted to Congress in February, 1983, a unanimous report, *Personal Justice Denied,* which extensively reviewed the history and circumstances of the decisions to exclude, remove and then to detain Japanese Americans and Japanese resident aliens from the West Coast, as well as the treatment of the Aleuts during World War II. The final part of the Commission's report, *Personal Justice Denied Part 2: Recommendations,* concluded that these events were influenced by racial prejudice, war hysteria, and a failure of political leadership, and recommended remedial action to be taken by the Congress and the President.

On August 10, 1988, President Ronald Reagan signed the Civil Liberties Act of 1988 into law. The purposes of the Act are to acknowledge and apologize for the fundamental injustice of the evacuation, relocation, and internment of Japanese Americans and permanent resident aliens of Japanese ancestry, to make restitution, and to fund a public education program to prevent the recurrence of any similar event in the future.

Section 105 of the Act assigned the Attorney General the responsibility and duties for the restitution provisions. The Attorney General delegated the responsibilities and duties assigned him by the Act to the Assistant Attorney General for Civil Rights, who, in turn, established the Office of Redress Administration in the Civil Rights Division to carry out the execution of the responsibilities and duties under the Act.

The Office of Redress Administration (ORA) is charged with the responsibility of identifying and locating persons eligible under the Act, without requiring any application for payment, within twelve months after the date of enactment of the Act (August 10, 1988), or within twelve months after the appropriation of funds necessary to complete the identification process. To date no appropriations have been made. It was estimated by the Commission on Wartime Relocation and Internment of Civilians that approximately 120,000 American citizens and permanent resident aliens of Japanese ancestry were affected by the exclusion. Of these, an estimated 60,000 individuals survive and are eligible for redress payment.

In its efforts to identify and locate these individuals, the Office of Redress Administration has initiated a highly publicized outreach program to the Japanese American community to encourage those persons thought to be eligible to notify the Office with information concerning their eligibility and current residences. On September 19, 1988, the Office of Redress Administration announced the establishment of a toll free telephone number and a U.S. Post Office Box designed to accommodate individuals wishing to ask questions or volunteer information concerning their eligibility. This announcement also was publicized in Japanese American newspapers. The Office also placed its West Coast staff in San Francisco, California, for ninety days in order to establish close working relationships with the leaders of Japanese American organizations to ensure that the Office would reach as many eligible persons as possible.

Section 105 of the Act also requires the Attorney General to notify each eligible individual in writing as to a determination of eligibility, and to authorize the payment of $20,000 to each eligible individual. Payment will be made in the order of the date of birth pursuant to Section 105(b).

Therefore, when funds are appropriated, payment will be made to the oldest eligible individual living on the date of the enactment of the Act, August 10, 1988 (or his or her statutory heirs), who has been located by the Administrator at that time. Payments will continue to be made until all eligible persons have received payment. For this purpose, the Act specifies that a total of $1,250,000,000 is to be placed in the United States Civil Liberties Public Education Fund from which payments may be made. Because the Act specifies that no more than $500,000,000 may be appropriated in any one year, not all payments can be made at one time.

During the period of drafting the proposed regulations, many individuals and organizations in the Japanese American community contacted the Civil Rights Division to ask questions and express concern regarding the determination of eligibility. In response to these concerns the Division published a Notice in the **Federal Register**, 53 FR 41252 (October 20, 1988), inviting the public to submit comments during the proposed regulation's drafting period on three issues that seemed to be of major concern to the public. These issues pertained to the eligibility of minors who were relocated to Japan between

December 7, 1941 and September 2, 1945, persons of Japanese ancestry sent to the United States from other American republics during World War II as a result of international agreements, and voluntary evacuees who did not file "Change of Residence" cards.

In response to this Notice, the Office of Redress Administration received one hundred forty-eight comments regarding these and other issues of eligibility, all of which have been placed for public inspection in the public reading room of the ORA office. Some respondents were United States citizens of Japanese ancestry who were relocated to Japan without consent as minors during World War II. These individuals expressed the belief that their constitutional rights had been violated at the time and to exclude them now from compensation would brand them as disloyal Japanese Americans. Most other comments concerned the plight of individuals of Japanese ancestry from other American countries who were interned in the United States. Letters from those so interned, and others who were not, generally supported compensation to these persons. Comments regarding voluntary evacuees who did not file "Change of Residence" cards provided further evidence that verification of the status of these individuals will need to be done on a case by case basis in order to determine if such persons evacuated as a result of government action. Finally, the Office of Redress Administration received letters from Japanese American World War II veterans whose families had been evacuated. Some of these soldiers had been unable to return to unauthorized zones to protect their property, while others had been prohibited from visiting their families in relocation centers. These veterans voiced the concern that the Act might not include them as eligible.

In drafting the proposed regulations, the Division read and considered each comment. The decisions that the Division made in response to these comments were made on a thorough consideration of the merits of each point of view expressed in the comments.

On June 14, 1989, the Department of Justice published a Notice of Proposed Rulemaking (NPRM) for the implementation of section 105 of the Civil Liberties Act of 1988. 54 FR 25291. By July 14, 1989, the close of the comment period, the Division had received 157 comments, 146 from individuals, 9 from organizations representing the interests of Japanese Americans, and 2 from members of Congress. Of these comments, 130 were based on two form letters supporting eligibility for three groups determined ineligible in the proposed regulation: Japanese American minors who were relocated to Japan during World War II, children of parents who had voluntarily evacuated from the excluded zones, and Latin American Japanese brought to the United States for internment during World War II. Thirteen other comments expressed concern that the requirements for documents for verification of identity were unduly burdensome.

The Division read and analyzed each comment. In response to these comments the Office of Redress Administration made changes to the proposed regulations incorporating suggestions where appropriate. However, such changes were not made on the basis of the number of comments addressing any one point but on a thorough consideration of the merits of the points of view expressed in the comments. Other non-substantive changes were made in order to provide further clarification of the implementation procedures.

II. Responses to Comments and Summary of the Regulations and Revisions

These regulations, which consist of five subparts, implement section 105 of the Act. Subpart A states the purpose of the regulation and defines key terms; subpart B lists the categories of individuals determined to be eligible or ineligible in accordance with the statute; subpart C establishes a procedure through which the Office of Redress Administration will identify and locate all eligible individuals; subpart D establishes the procedures for payment; and subpart E establishes an appeals process whereby an individual who is determined by the Redress Administrator to be ineligible may petition for a reconsideration of that finding.

The first issue of eligibility is concerned with the statutory threshold requirement that an eligible person be an individual of "Japanese ancestry." Records of the evacuation period indicate that there were approximately 80 non-Japanese who were interned with their Japanese American spouses or children. (It is estimated that perhaps 40 such persons are still living.) The Government required these persons to sign a waiver of their rights as non-excluded individuals in order to accompany spouses or children to assembly centers and relocation camps. These wives, husbands and parents executed WPC Form PM-7, "Request and Waiver of Non-Excluded Person," which requested leave to accompany a member of his or her family through all the stages of evacuation and internment as if they were persons of Japanese ancestry. In reality these non-Japanese spouses and parents were confronted by a horrifying choice. They could either "elect" to accompany their spouses or children throughout the removal and internment process, or choose to be separated from them. In the event that there was no Japanese parent or adult relative to accompany the child the Government policy was to take the part-Japanese child and place him or her in an institution and later transfer the child to the Children's Center under the supervision of the War Relocation Authority at Manzanar, California. Obviously, every human instinct would compel these parents to "elect" evacuation.

Unfortunately, however, section 108(2) of the Civil Liberties Act of 1988 limits the definition of an "eligible individual" specifically to "any individual of Japanese ancestry." Indeed, the focus throughout the Act is on those of Japanese ancestry and the discrimination they suffered based on their race. In light of the specificity with which Congress has spoken and its focus on the racial discrimination suffered, it must be concluded that the statute authorizes compensation be paid only to those of Japanese ancestry, and not to those who are of non-Japanese ancestry but who were nevertheless interned.

Although the phrase "of Japanese ancestry" in the Civil Liberties Act of 1988 cannot be interpreted in the regulation to include non-Japanese family members for purposes of compensation, it is undeniable that these individuals suffered the very injury that the Civil Liberties Act of 1988 is designed to redress and compensate, and that they should be compensated. Therefore, the Department will submit legislation to the Congress to amend the Civil Liberties Act of 1988 to render eligible those non-Japanese family members who suffered the effects of the government's internment policy by accompanying their spouses or children of Japanese ancestry through the evacuation and internment process.

A second area of inquiry regarding eligibility pertains to the method of confinement. It is clear from the findings by the Commission on Wartime Relocation of Civilians that the evacuation, relocation or internment of the Japanese Americans and Japanese resident aliens was not a single uniform action. Indeed, in section 108(2)(B)(i) (I)–(III) Congress specifically included language to ensure that the Act covered individuals confined, held in custody, relocated, or "otherwise deprived of liberty or property" as a result of any action taken by the United States or its agents solely on the basis of Japanese ancestry during the period from December 7, 1941 to June 30, 1946. Therefore, in addition to persons deprived of liberty or property solely on the basis of Japanese ancestry by placement in relocation centers under the supervision of the Wartime Relocation Authority, or in camps under the authority of the Department of Justice or the U.S. Army, others who were deprived of liberty by other Government actions would also be eligible. As the discussion below illustrates, the language "otherwise deprived of liberty or property as a result (of government actions)" may be interpreted to include several categories of individuals. One example of a deprivation of liberty could be institutionalized persons who were unable to evacuate from the prohibited areas and were placed in the custody of the Wartime Relocation Authority.

In addition, some individuals who were members of the U.S. Armed Forces on or before mandatory evacuation on March 31, 1942, and not discharged from duty by that date, and whose domiciles were in excluded areas, could be determined to be eligible under section 108(2)(B)(i) as persons "otherwise deprived of liberty or property" as a result of the acts enumerated in subsections (I), (II), and (III). The Western Defense Command Public Proclamation No. 11, dated August 18, 1942, excluded all Japanese citizens and aliens from Military Area No. 1 and the California portion of Military Area No. 2 without first securing written permission of the Western Defense Command. As a result, there were some soldiers who were unable to re-enter unauthorized zones and safeguard their property. Such persons, as well as those whose property was confiscated by the government, could be considered to have been "deprived of property" as a result of the exclusion policy.

The issue concerning deprivation of property was raised in the Attorney General Adjudication for the Japanese American Evacuation Act of 1948. In *Hirotoshi Oda*, 1 Adjudications of the Attorney General 361 (No. 146–35–16597, November 5, 1954), it was held that persons of Japanese ancestry who were members of the Armed Forces and sustained property losses as a result of the exclusion policy were as much entitled to compensation under the Act as if they had been evacuated to assembly centers and relocation centers with the other members of their families. In light of the statutory language of the 1988 Act and the expressed purpose of that Act, such persons may be eligible for redress.

Finally, some Japanese American soldiers were "deprived of liberty" by virtue of the fact that regulations prohibited them from entering relocation centers to visit their family members or forced Japanese American soldiers to submit to undue restrictions amounting to a deprivation of liberty prior to visiting their families. (This group could also include a small percentage of members of the United States Armed Forces of Japanese ancestry from Hawaii whose families were interned.) One respondent questioned the singling out of the members of the military for eligibility and not other non-military persons of Japanese ancestry who were temporarily outside the prohibited zone and who may also have sustained property losses as a result of exclusion policy. We note that the regulations specifically set forth two categories of eligibility for the military, § 74.3 (b)(4) and (b)(5); however, the regulations also provide in § 74.3(c) that other individuals may be determined eligible under the Act on a case-by-case basis.

Another major issue of eligibility concerns those persons who were not interned but who evacuated their places of residence during the evacuation, relocation and internment period. The central question in determining eligibility in such cases is whether the individuals concerned evacuated their places of residence "as a result of" one or other of the statutorily specified types of governmental action. See section 108(2)(B). Thus, if the individuals in question were ordered by the military to evacuate an area, their evacuation was clearly a result of a governmental action. Similarly, if they evacuated in order to avoid internment, their evacuation resulted from governmental action. In contrast, if they evacuated voluntarily, not in response to any governmental order, it would seem that they are not eligible.

Some individuals evacuated as a result of specific governmental or military directives. President Roosevelt's Executive Order 9066, empowering the Secretary of War and the Military Commanders whom he might designate to prescribe military areas from which "any and all persons may be excluded" was issued on February 19, 1942. However, even as early as December 7, 1941, agents of the government were taking custody of enemy aliens, including Japanese. On January 29, 1942, the Department of Justice announced the first of a series of zones prohibited to enemy aliens on the West Coast, ordering such persons not to enter or remain in such areas after February 24, 1942. On February 10, 1942, the Department of Justice warned all Japanese aliens (of a total Japanese and Japanese American population of about 3,500) to evacuate Terminal Island, near Los Angeles: That evacuation took place, under orders of the Navy, on February 25, 1942. Apart from these early evacuations preceding Executive Order 9066, there was at least one later case of evacuations undertaken in response to a specific military directive. On March 24, 1942, after the issuance of Executive Order 9066, but before evacuation from Military Area No. 1 was required by orders of the West Coast Military Commander, persons of Japanese ancestry were ordered to evacuate Bainbridge Island, near Seattle.

The statute reaches all of the above-described situations. Even assuming that none of these evacuations "resulted from" Executive Order 9066, section 108(2)(B)(i)(III) declares evacuees eligible if their relocation resulted from any "directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees." Thus, actions of the Department of Justice, the Federal Bureau of Investigation, the Army, the Navy, or any other federal entity, to exclude, relocate or intern persons of Japanese descent, whether taken pursuant to Executive Order 9066 or not, provide the basis for eligibility for these groups of evacuees.

Another group of persons involuntarily evacuated who are deemed eligible under the regulations consist of those who left their places of residence on the West Coast between March 2, 1942, the issuance of Public Proclamation No. 1, and March 29, 1942, the date on which the Public Proclamation No. 4 took effect whereby persons of Japanese ancestry were prohibited from leaving parts of the West Coast area because the Government was preparing to forcibly relocate them later. Section 108(2)(B)(ii) of the Act defines as eligible one who "was enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending on June 30, 1946, as being in a prohibited military zone." The Conference Report explains this language as a reference to some 4,889 Japanese Americans who left the West Coast during the so-called "voluntary" phase of the Government's evacuation program, and who filed "Change of

Residence" cards with the Wartime Civil Control Administration: "The conferees intend to include individuals who filed Change of Residence cards during the period between the issuance of Public Proclamation No. 1, on March 2, 1942 and public proclamation No. 4 on March 27, 1942 as being 'enrolled on the records of the U.S. Government.' " While some individuals may have evacuated after March 2, 1942, but not have been enrolled on such cards, they may be determined on a case by case basis to be eligible if such persons were directly ordered by the Government to evacuate. (Clearly, any person of Japanese ancestry who was evacuated from an excluded zone *after* March 29, 1942 is eligible, since such an evacuation would have been a "result" either of Executive Order 9066 or of a military directive issued pursuant to it.)

There remain those cases, if any, of evacuations occurring *before* March 2, 1942, but *not* in response to a governmental order directed specifically at the evacuees. We believe that if there are any such evacuees, they cannot be considered eligible.

The Office of Redress Administration also received comments pertaining to the eligibility of certain categories of persons who were minors during the internment period. We received 63 comments stating that Japanese American children born after the parents had voluntarily relocated from the prohibited zones or had departed from relocation centers or internment camps should be eligible. While children born in assembly centers, relocations camps and internment camps are included as eligible for compensation, the regulations do not include as eligible children born after their parents had voluntarily relocated from prohibited military zones or from assembly centers, relocation camps, or internment camps.

One comment pointed out that children of Japanese ancestry born in internment camps during the internment period were not specifically listed in the regulations. Such persons were intended to be included as eligible in the proposed regulations and therefore, § 74.3(b)(7) has been amended to include as eligible children of Japanese ancestry born in the internment camps during the internment period in addition to those born in assembly centers and relocation camps.

A unique eligibility issue pertains to minors who were relocated to Japan during the period beginning on December 7, 1941 and ending on September 2, 1945. Records indicate that some minors who were United States citizens were relocated with their families during this period. The Division received 61 comments in support of the eligibility of these minors. However, in implementing section 105 of the Act, the Department must follow the clearly restrictive language in section 108(2) that specifically excludes any individual who during the period beginning on December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country. Consequently, the exclusionary language of the Act would preclude from eligibility the minors, as well as adults, who were relocated to Japan during that particular time period.

The last major eligibility issue pertains to persons of Japanese ancestry who were sent to the United States from other American countries for restraint and repatriation pursuant to international commitments of the United States Government for the security of the United States and its associated powers. We received 77 comments advocating that all such individuals should be eligible for redress. The plight of these persons is described in the Appendix to Part I of *Personal Justice Denied.* Although these individuals were evacuated, relocated or interned similarly to those of Japanese ancestry evacuated from the West Coast, the statute's threshold requirement that an eligible person must be a citizen of the United States or a permanent resident alien excludes most of these persons from redress payment. Records indicate that the people who entered the United States under these international agreements were determined by the Department of Justice to be illegal aliens. As such, they were not lawfully admitted to the United States for permanent residence. Consequently, the restrictive language of the Act pertaining to citizenship status renders such persons ineligible. On the other hand, after World War II some of the Latin American Japanese who were brought to the United States from other American republics for internment were permitted, under applicable statutes, to apply to the Attorney General of the United States for an adjustment of their immigration status; these individuals obtained the status of permanent resident alien extending retroactively to the internment period. Such persons would meet the threshold statutory requirement under the regulations of being permanent resident aliens during the evacuation, relocation and internment period and, as such, be eligible for compensation. In addition, children born in the United States to the Latin American Japanese during their internment would, by virtue of their place of birth, be United States citizens and therefore meet the threshold requirement for eligibility.

While this preamble has endeavored to discuss eligibility issues of public concern, § 74.3 of the regulations specifically sets forth those categories of individuals who are eligible or ineligible for compensation under Section 105 of the Act.

II. Verification Procedures

The Act forbids the Government from requiring persons to file claims for redress payments, but states that the Attorney General shall locate and identify all eligible persons by using records already in the possession of the United States Government. However, any eligible person is free to notify the Attorney General and advise him of the individual's claim of eligibility. In addition to using Federal Government records, the Attorney General may use any facility or resource of any public or nonprofit organization or any other record document or information that may be made available to the Government. Section 74.5 describes the official and unofficial sources that the Government anticipates using for identification and location of eligible persons. Section 74.6 describes the procedures whereby the Office shall endeavor to locate eligible individuals.

All information compiled in these files is subject to the statutory mandates of the Privacy Act. Therefore, the Civil Rights Division is prohibited from using or releasing this information for purposes other than those described in the Division's Privacy Act Notice of Records Systems. 54 FR 13252.

After an individual is determined to be eligible, the regulations provide for a letter of notification to be sent to the individual to notify him or her of a preliminary finding of eligibility. (§ 74.7) Enclosed with the letter will be a form and a request for documentation. The Division attached draft forms which were appended to the proposed regulations as Appendix A to Part 74. The forms are unsworn declarations under penalty of perjury. (28 U.S.C. 1746) The purpose of these forms and the requests for documentation is to verify the identity of the individuals eligible for redress in order to prevent fraud or duplication of payments.

We received 13 comments pertaining to our requests for documentation. These letters expressed concern that the requirements to submit *original* documents, particularly to document the date of birth of a candidate are unduly burdensome. In response to such comments § 74.7(b) has been amended to eliminate the requirement of submission of a photo identification with the current legal name. In addition, documentation requirements in Appendix A to Part 74 have been modified to accept certified copies in lieu of original records as evidence of birth or current legal name and address. Furthermore, we have waived the documentation of date of birth for persons whose identification has been confirmed by the Social Security Administration (SSA). (We estimate that SSA has confirmed over one-third of the possible 60,000 surviving eligible persons.) Finally, ORA will establish a telephone number for persons to call for advice about documentation.

III. Notification and Payment

Upon receipt of a person's unsworn declaration and documentation, the Redress Administrator will make a final determination of eligibility for payment and notify the individual in writing of his finding. (§ 74.8) As required by statute, a person determined to be eligible has up to eighteen months after notification to accept payment. The statute states that a person who accepts payment waives all claims against the United States arising from government actions described in the Act. The regulations also incorporate the statutory requirement that the refusal to accept payment by a person determined to be eligible must be in writing and such refusal will be final for that person and his or her survivors. (§ 74.11)

After funds have been appropriated and actual payments are to be made, the Assistant Attorney General for Civil Rights will certify authorization for payment to the Assistant Attorney General for Justice Management, who will give final authorization to the Secretary of the Treasury. (§ 74.10) Payments will be made beginning with the oldest living eligible person that has been identified at the date the notice goes out, or his or her survivors, until all eligible persons have received payment. (§ 74.12) In accordance with the statute, the categories of survivors who can receive redress payments are limited to spouses, children, and parents. (§ 74.13) The methods for establishing proof of relationship to the deceased eligible person are set forth in § 74.14.

IV. Appeal Procedures

In order to fairly resolve those cases in which the Administrator makes a determination of ineligibility, the regulations have established an appeal process. When an individual is notified in writing of the Administrator's finding of ineligibility and reason or reasons for the finding, the letter also shall inform the individual that he or she may petition for a reconsideration of the determination of ineligibility to the Assistant Attorney General for Civil Rights, or the official designated by the Assistant Attorney General for Civil Rights, and that he or she has the right to submit documentation in support of his or her claim of eligibility. (§ 74.15) The regulations also provide procedures for filing a request for reconsideration. (§ 74.16)

Section 74.17 describes the appeal procedure whereby the Assistant Attorney General for Civil Rights, or the official designated to act on his behalf, reviews the determination of the Redress Administrator and any documentation submitted by the requester, and then notifies the requester of his or her decision to reverse or affirm the Redress Administrator's determination of ineligibility. The decision shall constitute the final action of the Department on that appeal.

Finally, non-substantive changes have been made throughout the regulations in response to comments in order to further clarify the verification and documentation procedures.

V. Regulatory Impact Analysis

This rule is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR 1981 Comp. p.127). Moreover, a regulatory flexibility analysis has not been prepared under the Regulatory Flexibility Act (5 U.S.C. 601–612), because the rule is unlikely to have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 74

Administrative practice and procedure, Aliens, Archives and records, Citizenship and naturalization, Civil rights, Indemnity payments, Minority groups, Nationality, War claims.

For the reasons set forth in the preamble and by the authority vested in me including 28 U.S.C. 509 and 510, chapter I of title 28 of the Code of Federal Regulations is amended by adding part 74 to read as follows:

PART 74—CIVIL LIBERTIES ACT REDRESS PROVISION

Subpart A—General.

Subpart B—Standards of Eligibility

Subpart C—Verification of Eligibility

Subpart D—Notification and Payment

Subpart E—Appeal Procedures

Appendix A to Part 74—Declarations of Eligibility by Persons Identified by the Office of Redress Administration and Requests for Documentation.

Authority: 50 U.S.C. app. 1989b.

Subpart A—General

§ 74.1 Purpose.

The purpose of this part is to implement section 105 of the Civil Liberties Act of 1988, which authorizes the Attorney General to locate, identify, and make payments to all eligible individuals of Japanese ancestry who were evacuated, relocated, and interned during World War II as a result of government action.

§ 74.2 Definitions.

(a) *The Act* means the Civil Liberties Act of 1988, Pub. L. 100–383, 102 Stat. 903, as codified at 50 U.S.C. app. 1989b et seq., (August 10, 1988).

(b) *The Administrator* means the Administrator in charge of the Office of Redress Administration of the Civil Rights Division.

(c) *Assembly centers and relocation centers* means those facilities established pursuant to the acts described in § 74.4(i)–(ii).

(d) *Child of an eligible individual* means a recognized natural child, an adopted child, or a step-child who lived with the eligible person in a regular parent-child relationship.

(e) *The Commission* means the Commission on Wartime Relocation and Internment of Civilians established by the Commission on Wartime Relocation and Internment Act, 50 U.S.C. app. 1981 note.

(f) *Evacuation, relocation, and internment period* means that period beginning December 7, 1941, and ending June 30, 1946.

(g) *The Fund* means the Civil Liberties Public Education Fund in the Treasury of the United States administered by the Secretary of the Treasury pursuant to section 104 of the Civil Liberties Act of 1988.

(h) *The Office* means the Office of Redress Administration established in the Civil Rights Division of the U.S. Department of Justice to execute the responsibilities and duties assigned the Attorney General pursuant to Section 105 of the Civil Liberties Act of 1988.

(i) *Parent of an eligible individual* means the natural father and mother, or fathers and mothers through adoption.

(j) *The Report* means the published report by the Commission on Wartime Relocation and Internment of Civilians of its findings and recommendations entitled, *Personal Justice Denied,* Part I and Part II.

(k) *Spouse of an eligible individual* means a wife or husband of an eligible individual who was married to that eligible person for at least one year immediately before the death of the eligible individual.

Subpart B—Standards of Eligibility

§ 74.3 Eligibility determinations.

(a) An individual is found to be eligible if such an individual:

(1) Is of Japanese ancestry; and

(2) Was living on the date of enactment of the Act, August 10, 1988; and

(3) During the evacuation, relocation, and internment period was—

(i) A United States citizen; or

(ii) A permanent resident alien who was lawfully admitted into the United States; or

(iii) An alien, who after the evacuation, relocation and internment period, was permitted by applicable statutes to obtain the status of permanent resident alien extending to the internment period; and

(4) Was confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of—

(i) Executive Order 9066, dated February 19, 1942;

(ii) The Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining, leaving, or committing any act in military areas or zones," approved March 21, 1942; or

(iii) Any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry.

(b) The following individuals are deemed to have suffered a loss within the meaning of paragraph (a)(4) of this section:

(1) Individuals who were interned under the supervision of the wartime Relocation Authority, the Department of Justice or the United States Army; or

(2) Individuals enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending June 30, 1946, as being in a prohibited military zone, including those individuals who, during the voluntary phase of the government's evacuation program between the issuance of Public Proclamation No. 1 on March 2, 1942, and the enforcement of Public Proclamation No. 4 on March 29, 1942, filed a "Change of Residence" card with the Wartime Civil Control Administration; or

(3) Individuals ordered by the Navy to leave Bainbridge Island, off the coast of the State of Washington, or Terminal Island, near San Pedro, California; or

(4) Individuals who were members of the Armed Forces of the United States at the time of the evacuation and internment period and whose domicile was in a prohibited zone and as a result of the government action lost property; or

(5) Individuals who were members of the Armed Forces of the United States at the time of the evacuation and internment period and were prohibited by government regulations from visiting their interned families or forced to submit to undue restrictions amounting to a deprivation of liberty prior to visiting their families; or

(6) Individuals who, after March 29, 1942, evacuated and relocated from the West Coast as a result of government action, including those who obtained written permission to travel to a destination outside of the unauthorized areas from the Western Defense Command and the Fourth Army; or

(7) Individuals born in assembly centers, relocation centers or internment camps to parents of Japanese ancestry who had been evacuated, relocated or interned pursuant to paragraph (a)(4) of this section, including children born in the United States to parents of Japanese ancestry who were relocated to the United States from other countries in the Americas during the internment period; or

(8) Individuals who, prior to or at the time of evacuation, relocation or internment period, were in institutions, such as a hospital, pursuant to acts described in paragraph (a)(4) and, were placed under the custody of the Wartime Relocation Authority and confined within the grounds of the institution and not permitted to return to their homes or to go anywhere else.

(c) Paragraph (b) of this section is not an exhaustive list of individuals who are deemed eligible for compensation; there may be other individuals determined to be eligible under the Act on a case-by-case basis by the Redress Administrator.

§ 74.4 Individuals excluded from compensation pursuant to section 108(B) of the Act.

The term "eligible individual" does not include any individual who, during the period beginning on December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country.

Subpart C—Verification of Eligibility

§ 74.5 Identification of eligible persons.

(a) The Office shall establish an information system with names and other identifying information of potentially eligible individuals from the following sources:

(1) Official sources:

(i) The National Archives;

(ii) The Department of Justice;

(iii) The Social Security Administration;

(iv) Internal Revenue Service;

(v) University libraries;

(vi) State and local libraries;

(vii) State and local historical societies;

(viii) State and local agencies.

(2) Unofficial sources:

(i) Potentially eligible individuals;

(ii) Eligible individuals, relatives, legal guardians, representatives, or attorneys;

(iii) Civic Associations;

(iv) Religious organizations;

(v) Such other sources that the Administrator determines are appropriate.

(b) Historic information pertaining to individuals listed in official United States Government records will be analyzed to determine if such persons are eligible for compensation as set forth in section 108 of the Act.

(c) Persons not listed in the historic records of the United States Government who volunteer information pertaining to their eligibility may be required by the Administrator to submit affidavits and documentary evidence to support assertions of eligibility.

§ 74.6 Location of eligible persons.

The Office shall compare the names and other identifying information of eligible individuals from the historical official records of the United States Government with current information from both official and unofficial sources in the information system to determine if such persons are living or deceased and, if living, the present location of these individuals.

Subpart D—Notification and Payment

§ 74.7 Notification of eligibility.

(a) Each individual who has been found to be eligible or their statutory heirs will be sent written notification of such status by the Office. Enclosed with the notification will be a declaration to be completed by the person so notified, or by his or her legal guardian, and a request for documentation of identity.

(b) The declaration and submitted documents (Appendix A to part 74) will be used for a final verification of eligibility in order to ensure that the person identified as eligible by the Office is in fact the person who will receive payment, and shall include a request for the following information:

(1) Current legal name;

(2) Proof of name change if the current legal name is different from the name used when evacuated or interned, such as a marriage certificate or other evidence of the name change as described in Appendix A;

(3) Date of birth;

(4) Proof of date of birth as set forth in Appendix A;

(5) Current address;

(6) Proof of current address as set forth in Appendix A;

(7) Current telephone number;

(8) Social Security Number;

(9) Name when evacuated or interned;

(10) Proof of guardianship by a person executing a declaration on behalf of an eligible person as set forth in Appendix A.

(11) Proof of the relationship to a deceased eligible individual by a statutory heir as set forth in § 74.13 and Appendix A;

(12) Proof of the death of a deceased eligible person as set forth in Appendix A.

(c) The individual must submit a signed and dated statement swearing under penalty of perjury to the truth of all the information provided on the declaration. A natural or legal guardian, or any other person, including the spouse of an eligible person, who the Administrator determines is charged with the care of the individual, may submit a signed and dated statement on behalf of the eligible individual who is incompetent or otherwise under a legal disability.

(d) Upon receipt of an individual's declaration and documentation, the Administrator shall make a determination of verification of the identity of the eligible person.

(e) Each person determined not to be preliminarily eligible after review of the submitted documentation will be notified by the Redress Administrator of the finding of ineligibility and the right to petition for a reconsideration of such a finding.

§ 74.8 Notification of payment.

The Administrator shall, when funds are appropriated for payment, notify an eligible individual in writing of his or her eligibility for payment. Section 104 of the Act limits any appropriation to not more than $500,000,000 for any fiscal year.

§ 74.9 Conditions of acceptance of payment.

(a) Each eligible individual will be deemed to have accepted payment if, after receiving notification of eligibility from the Redress Administrator, the eligible individual does not refuse payment in the manner described in § 74.11.

(b) Acceptance of payment shall be in full satisfaction of all claims arising out of the acts described in § 74.3(a)(4).

§ 74.10 Authorization for payment.

(a) Upon determination by the Administrator of the eligibility of an individual, the authorization for payment of $20,000 to the eligible individual will be certified by the Assistant Attorney General of the Civil Rights Division to the Assistant Attorney General of the Justice Management Division, who will give final authorization to the Secretary of the Treasury for payment out of the funds appropriated for this purpose.

(b) Authorization of payments made to survivors of eligible persons will be certified in the manner described in paragraph (a) of this section to the Secretary of the Treasury for payment to the individual member or members of the class of survivors entitled to receive payment under the procedures set forth in § 74.13. Payments to statutory heirs of a deceased eligible individual will be made only after all the statutory heirs of the deceased person have been identified and verified by the Office.

(c) Any payment to an eligible person under a legal disability, may, in the discretion of the Assistant Attorney General for Civil Rights, be certified for payment for the use of the eligible person, to the natural or legal guardian, committee, conservator or curator, or, if there is no such natural or legal guardian, committee, conservator or curator, to any other person, including the spouse of such eligible person, who the Administrator determines is charged with the care of the eligible person.

§ 74.11 Effect of refusal to accept payment.

If an eligible individual who has been notified by the Administrator of his or her eligibility refuses in writing within eighteen months of the notification to accept payment, the written record of refusal will be filed with the Office and the amount of payment as described in § 74.10 shall remain in the Fund and no payment may be made as described in § 74.12 to such individual or his or her survivors at any time after the date of receipt of the written refusal.

§ 74.12 Order of payment.

Payment will be made in the order of date of birth pursuant to section 105(b) of the Act. Therefore, when funds are appropriated, payment will be made to the oldest eligible individual living on the date of the enactment of the Act, August 10, 1988, (or his or her statutory heirs) who has been located by the Administrator at that time. Payments will continue to be made until all eligible individuals have received payment.

§ 74.13 Payment in the case of a deceased eligible individual.

In the case of an eligible individual as described in § 74.3 who is deceased, payment shall be made only as follows—

(a) If the eligible individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(b) If there is no surviving spouse as described in paragraph (a) of this subsection, such payment shall be made in equal shares to all children of the eligible individual who are living at the time of payment.

(c) If there is no surviving spouse described in paragraph (a) of this section, and if there are no surviving children as described in paragraph (b) of this section, such payment shall be made in equal shares to the parents of the deceased eligible individual who are living at the time of payment.

(d) If there are no surviving spouses, children or parents as described in paragraphs (a), (b), and (c) of this section, the amount of such payment shall remain in the Fund and may be used only for the purposes set forth in section 106(b) of the Act.

§ 74.14 Determination of the relationship of statutory heirs.

(a) A spouse of a deceased eligible individual must establish his or her marriage by one (or more) of the following:

(1) A copy of the public record of marriage, certified or attested;

(2) An abstract of the public record, containing sufficient data to identify the parties, the date and place of marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record;

(3) A certified copy of the religious record of marriage;

(4) The official report from a public agency as to a marriage which occurred while the deceased eligible individual was employed by such agency;

(5) An affidavit of the clergyman or magistrate who officiated;

(6) The original certificate of marriage accompanied by proof of its genuineness;

(7) The affidavits or sworn statements of two or more eyewitnesses to the ceremony;

(8) In jurisdictions where "Common Law" marriages are recognized, the affidavits or certified statements of the spouse setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits or certified statements from two or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage, including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife and whether they were generally accepted as such in the communities in which they lived; or

(9) Any other evidence which would reasonably support a finding by the Administrator that a valid marriage actually existed.

(b) A child should establish that he or she is the child of a deceased eligible individual by one of the following types of evidence:

(1) A birth certificate showing that the deceased eligible individual was the child's parent;

(2) An acknowledgment in writing signed by the deceased eligible individual;

(3) Evidence that the deceased eligible individual has been identified as the child's parent by a judicial decree ordering the deceased eligible individual to contribute to the child's support or for other purposes; or

(4) Any other evidence that reasonably supports a finding of a parent-child relationship, such as—

(i) A certified copy of the public record of birth or a religious record showing that the deceased eligible individual was the informant and was named as the parent of the child;

(ii) Affidavits or sworn statements of a person who knows that the deceased eligible individual accepted the child as his or hers; or

(iii) Information obtained from public records or a public agency, such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, the deceased eligible individual was named as the parent of the child.

(c) Except as may be provided in paragraph (b) of this section, evidence of the relationship by an adopted child must be shown by a certified copy of the decree of adoption. In jurisdictions where petition must be made to the court for release of adoption documents or information, or where the release of such documents or information is prohibited, a revised birth certificate will be sufficient to establish the fact of adoption.

(d) The relationship of a step-child to a deceased eligible individual shall be demonstrated by—

(1) Evidence of birth to the spouse of the deceased eligible individual as required by paragraphs (e) and (f) of this section;

(2) Evidence of adoption as required by section (b) of this section when the step-child was adopted by the spouse;

(3) Other evidence which reasonably supports the finding of a parent-child relationship between the child and the spouse;

(4) Evidence that the step-child was either living with or in a parent-child relationship with the deceased eligible individual at the time of the eligible individual's death; and

(5) Evidence of the marriage of the deceased eligible individual and the step-child's natural or adoptive parent, as required by paragraph (a) of this section.

(e) A parent of a deceased eligible individual may establish his or her parenthood of the deceased eligible individual by providing one of the following types of evidence:

(1) A birth certificate that shows the person to be the deceased eligible individual's parent;

(2) An acknowledgment in writing signed by the person before the eligible individual's death; or

(3) Any other evidence which reasonably supports a finding of such a parent-child relationship, such as—

(i) A certified copy of the public record of birth or a religious record showing that the person was the informant and was named as the parent of the deceased eligible individual;

(ii) Affidavits or sworn statements of persons who know the person had accepted the deceased eligible individual as his or her child; or

(iii) Information obtained from public records or a public agency such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, the person had been named as parent of the child.

(f) An adoptive parent of a deceased eligible individual must show one of the following as evidence—

(1) A certified copy of the decree of adoption and such other evidence as may be necessary; or

(2) In jurisdictions where petition must be made to the court for release of such documents or information, or where release of such documents or information is prohibited, a revised birth certificate showing the person as the deceased eligible individual's parent will suffice.

Subpart E—Appeal Procedures

§ 74.15 Notice of the right to appeal a finding of ineligibility.

Persons determined to be ineligible by the Administrator will be notified in writing of the determination, the right to petition for a reconsideration of the determination of ineligibility to the Assistant Attorney General for Civil Rights, and the right to submit any documentation in support of eligibility.

§ 74.16 Procedures for filing an appeal.

A request for reconsideration shall be made to the Assistant Attorney General for Civil Rights within 60 days of the receipt of the notice from the Administrator of a determination of ineligibility. The request shall be made in writing, addressed to the Assistant Attorney General of the Civil Rights Division, P.O. Box 65808, Washington, DC. 20035-5808. Both the envelope and the letter of appeal itself must be clearly marked: "Redress Appeal." A request not so addressed and marked shall be forwarded to the Office of the Assistant Attorney General for Civil Rights, or the official designated to act on his behalf, as soon as it is identified as an appeal of eligibility. An appeal that is improperly addressed shall be deemed not to have been received by the Department until the Office receives the appeal, or until the appeal would have been so received with the exercise of due diligence by Department personnel.

§ 74.17 Action on appeal.

(a) The Assistant Attorney General or the official designated to act on his behalf shall:

(1) Review the original determination;

(2) Review additional information or documentation submitted by the individual to support a finding of eligibility;

(3) Notify the petitioner when a determination of ineligibility is reversed on appeal; and

(4) Inform the Redress Administrator.

(b) Where there is a decision affirming the determination of ineligibility, the letter to the individual shall include a statement of the reason or reasons for the affirmance.

(c) A decision of affirmance shall constitute the final action of the Department on that redress appeal.

Appendix A to Part 74—Declarations of Eligibility by Persons Identified by the Office of Redress Administration and Requests for Documentation.

Form A:

Declaration of Eligibility by Persons Identified by the Office of Redress Administration

U.S. Department of Justice
Civil Rights Division
Office of Redress Administration

This declaration shall be executed by the identified eligible person or such person's designated representative.

Complete the following information:

(1) Current Legal Name: ——————
(2) Current Address:
Street: ——————
City, State and Zip Code: ——————
——————
(3) Telephone Number:
——————
(Home)
——————
(Business)
(4) Social Security Number: ——————
(5) Date of Birth: ——————
(6) Name Used When Evacuated or Interned:

Read the following carefully before signing this document. A False Statement may be grounds for punishment by fine (U.S. Code, title 31, section 3729), and fine or imprisonment or both (U.S. Code, title 18, section 287 and section 1001).

I declare under penalty of perjury that the foregoing is true and correct.

——————
Signature
——————
Date

Privacy Act Statement: The authority for collecting this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation: The following documentation must be submitted with the above Declaration to complete your verification.

DOCUMENTATION:

I. Identification

A document with your current legal name and address. For example, you might send a bank or financial statement, or a monthly utility bill. Submit either a notarized copy of the record or an original that you do not need back.

II. *One* Document of Date of Birth

A certified copy of a birth certificate or a copy of another record of birth that has been certified by the custodian of the records. For example, you might send a religious record which shows your date of birth, or a hospital birth record. If you do not have any record of your birth the Administrator will accept affidavits of two or more persons attesting to the date of your birth.

If your notification letter says that the Social Security Administration has confirmed your date of birth, you *do not* have to send us any further evidence of your birth date.

III. *One* Document of Name Change

If your current legal name is the same as your name when evacuated or interned, this section does not apply.

This section is only required for persons whose current legal name is different from the name used when evacuated or interned.

1. A certified copy of the public record of marriage.

2. A certified copy of the divorce decree.

3. A certified copy of the court order of a name change.

4. Affidavits or sworn statements of two or more persons attesting to the name change.

IV. *One* Document of Evidence of Guardianship

If you are executing this document for the person identified as eligible, you must submit evidence of your authority.

If you are the legally-appointed guardian, committee, or other legally-designated representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an affidavit describing your relationship to the recipient or the extent to which you have the care of the recipient or your position as an officer of the institution in which the recipient is institutionalized.

Form B:

Declaration of Verification by Persons Identified as Statutory Heirs by the Office of Redress Administration

U.S. Department of Justice
Civil Rights Division
Office of Redress Administration

This declaration shall be executed by the spouse of a deceased eligible individual as statutory heir in accordance with Section 105(a)(7) of the Civil Liberties Act of 1988, 50 U.S.C. app. 1989b.

Complete the following information:

(1) Current Legal Name: ——————
(2) Current Address:
Street: ——————
City, State and Zip Code: ——————
——————
(3) Telephone Number:
——————
(Home)
——————
(Business)
(4) Social Security Number: ——————
(5) Date of Birth: ——————
(6) Relationship to the Deceased: ——————
(8) Date of marriage to the Deceased: ——————

Read the following carefully before signing this document.

A False Statement may be grounds for punishment by fine (U.S. Code, Title 31, section 3729), and fine or imprisonment or both (U.S. Code, Title 18, sections 287 and Section 1001).

I declare under penalty of perjury that the foregoing is true and correct.

——————
Signature
——————
Date

Privacy Act Statement: The authority for collecting this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation: The following documentation must be submitted with the above Declaration to complete your verification.

DOCUMENTATION:

I. *One* Document as Evidence of the Deceased Eligible Individual's Death

1. A certified copy or extract from the public records of death, coroner's report of death, or verdict of a coroner's jury.

2. A certificate by the custodian of the public record of death.

3. A statement of the funeral director or attending physician, or intern of the institution where death occurred.

4. A certified copy, or extract from an official report or finding of death made by an agency or department of the United States.

5. If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

6. If you cannot obtain any of the above evidence of your spouse's death, you must submit other convincing evidence to ORA such as the signed statements of two or more people with personal knowledge of the death, giving the place, date, and cause of death.

II. *One* Document as Evidence of Your Marriage to the Deceased Eligible Individual

1. A copy of the public records of marriage, certified or attested, or an abstract of the public records, containing sufficient data to identify the parties, the date and place of marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record, or a certified copy of the religious record of marriage.

2. An offical report from a public agency as to a marriage which occurred while the deceased eligible individual who was employed by such agency.

3. The affidavit of the clergyman or magistrate who officiated.

4. The certified copy of a certificate of marriage attested to by the custodian of the records.

5. The affidavits or sworn statements of two or more eyewitnesses to the ceremony.

6. In jurisdictions where "Common Law" marriages are recognized, the affidavits or certified statements of the spouse setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits or certified statements from two or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage, including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife and whether they were generally accepted as such in the communities in which they lived.

7. Any other evidence which would reasonably support a belief by the Administrator that a valid marriage actually existed.

III. Identification

A document with your current legal name and address. For example, you might send a bank or financial statement or a monthly utility bill. Submit either a notarized copy of the record or an original that you do not need back.

IV. *One* Document of Date of Birth

A certified copy of a birth certificate or a copy of another record of birth that has been certified by the custodian of the records. For example, you might send a copy of a religious record which shows your date of birth, or a hospital birth record. If you do not have any record of your birth, the Administrator will accept affidavits of two or more persons attesting to the date of your birth.

If your notification letter says that the Social Security Administration has confirmed your date of brith, you *do not* have to send us any further evidence of your birth date.

V. *One* Document of Name Change

If your current legal last name is the same as the last name of the deceased eligible individual or the same as at the time of marriage this section does not apply.

This section is only required for persons whose current legal last name is different from the last name of the deceased eligible.

1. A certified copy of the public record of marriage.

2. A certified copy of the divorce decree.

3. A certified copy of the court order of a name change.

4. Affidavits or sworn statements of two or more persons attesting to the name change.

VI. *One* Document of Evidence of Guardianship

If you are executing this document for the person identified as eligible, you must submit evidence of your authority.

If you are the legally-appointed guardian, committee, or other legally-designated representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an affidavit describing your relationship to the recipient or the extent to which you have the care of the recipient or your position as an officer of the institution in which the recipient is institutionalized.

Form C:

Declaration of Verification by Persons Identified by the Office of Redress Administration as Statutory Heirs

U.S. Department of Justice
Civil Rights Division
Office of Redress Administration

This declaration shall be executed by the child of a deceased eligible individual as a statutory heir in accordance with section 105(a)(7) of the Civil Liberties Act of 1988, 50 U.S.C. app. 1988b.

Complete the following information:

(1) Current Legal Name: ____________
(2) Current Address:
Street: ____________
City, State and Zip Code: ____________
____
(3) Telephone Number:
____
(Home)
____
(Business)
(4) Social Security Number: ____________
(5) Date of Birth: ____________
(6) Relationship to the Deceased: ____________
(7) List the names and address (if known) of all other children of the deceased eligible individual. This includes all recognized natural children, step-children who lived with the deceased eligible and adopted children. Enter the date of death for any persons who are deceased.
____
____
____
____

Read the following carefully before signing this document. A False Statement may be grounds for punishment by fine (U.S. Code, title 31, section 3729), and fine or imprisonment or both (U.S. Code, title 18, section 287 and section 1001).

I declare under penalty or perjury that the foregoing is true and correct.

____
Signature
____
Date

Privacy Act Statement: The authority for collecting this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation for Children of Deceased Eligible Individual

The following documentation must be submitted with the above Declaration to complete your verification.

DOCUMENTATION:

I. *One* Document as Evidence of Your Parent's Death

1. A certified copy or extract from the public records of death, coroner's report of death, or verdict of a coroner's jury.

2. A certificate by the custodian of the public record of death.

3. A statement of the funeral director or attending physician, or intern of the institution where death occurred.

4. A certified copy, or extract from an official report or finding of death made by an agency or department of the United States.

5. If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

6. If you cannot obtain any of the above evidence of your parent's death, you must submit other convincing evidence to ORA such as the signed statements of two or more people with personal knowledge of the death, giving the place, date, and cause of death.

II. *One* Document as Evidence of Your Relationship to Your Parent

Natural Child

1. A certified copy of a birth certificate showing that the deceased eligible individual was your parent.

2. If the birth certificate does not show the deceased eligible individual as your parent, other proof would be a certified copy of:

(a) An acknowledgment in writing signed by the deceased eligible individual.

(b) A judicial decree ordering the deceased eligible individual to contribute to your support or for other purposes.

(c) A certified copy of the public record of birth or a religious record showing that the deceased eligible individual was the informant and was named as your parent.

(d) Affidavits or sworn statements of a person who knows that the deceased eligible individual accepted the child as his or hers.

(e) A record obtained from a public agency or public records, such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, the deceased eligible individual was named as the parent of the child.

Adopted Child

Evidence of the relationship by an adopted child must be shown by a certified copy of the decree of adoption. In jurisdictions where petition must be made to the court for release of adoption documents or information, or where the release of such documents or information is prohibited, a revised birth certificate will be sufficient to establish the fact of adoption.

Step-Child

Submit all *three* as evidence of the step-child relationship.

1. One document as evidence of birth to the spouse of the deceased eligible individual as listed under the "natural child" and "adoptive child" sections to show that you were born to or adopted by the deceased individual's spouse, or other evidence which reasonably supports the existence of a parent-child relationship between you and the spouse of the deceased eligible person.

2. One document as evidence that you were either living with or in a parent-child relationship with the deceased eligible individual at the time of the eligible individual's death.

3. One document as evidence of the marriage of the deceased eligible individual

and the spouse, such as a copy of the record of marriage, certified or attested, or by an abstract of the public records, containing sufficient data to identify the parties and the date and place of marriage issued by the officer having custody of the record, or a certified copy of a religious record of marriage.

III. Identification

A document with your current legal name and address. For example, you might send a bank or financial statement, or a monthly utility bill. Submit either a notarized copy of the record or an original that you do not want back.

IV. *One* Document of Date of Birth

A certified copy of a birth certificate or a copy of another record of birth that has been certified by the custodian of the records. For example, you might send a copy of a religious record which shows your date of birth, or a hospital birth record. If you do not have any record of your birth, the Administrator will accept affidavits of two or more persons attesting to the date of your birth.

If your notification letter says that the Social Security Administration has confirmed your date of birth, you *do not* have to send us any further evidence of your birth date.

V. *One* Document of Name Change

If your current legal last name is the same as the last name of the deceased eligible, this section does not apply.

This section is only required for persons whose current legal last name is different from the last name of the deceased eligible.

Submit *one* of the following as evidence of the change of legal name.

1. A certified copy of the public record of marriage.

2. A certified copy of the divorce decree.

3. A certified copy of the court order of a name change.

4. Affidavits or sworn statements of two or more persons attesting to the name change.

VI. *One* Document of Evidence of Guardianship

If your are executing this document for the person identified as an eligible beneficiary, you must submit evidence of your authority.

If you are a legally-appointed guardian, committee, or other legally-designated representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an affidavit describing your relationship to the recipient or the extent to which you have the care of the recipient or your position as an officer of the institution in which the recipient is institutionalized.

Form D:

Declaration of Verification by Persons Identified by the Office of Redress Administration as Statutory Heirs

U.S. Department of Justice Civil Rights Division Office of Redress Administration

This declaration shall be executed by the identified parent of a deceased eligible individual as statutory heir in accordance with Section 105(a)(7) of the Civil Liberties Act of 1988, 50 U.S.C. app. 1989b.

Complete the following information:
(1) Current Legal Name: ______
(2) Current Address: ______
Street: ______
City, State and Zip Code: ______
(3) Telephone Number: ______
(Home) ______
(Business) ______
(4) Social Security Number: ______
(5) Date of Birth: ______
(6) Relationship to the Deceased: ______
(7) The name of the child's other parent and the address if known. This includes fathers and mothers through adoption. If the parent is deceased provide the date and place of death. ______

______

Read the following carefully before signing this document. A False Statement may be grounds for punishment by fine (U.S. Code, title 31, section 3729), and fine or imprisonment or both (U.S. Code, title 18, section 287 and section 1001).
I declare under penalty of perjury that the foregoing is true and correct.
Signature ______
Date ______
Privacy Act Statement: The authority for collecting this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation.

The following documentation must be submitted with the above Declaration to complete your verification.

DOCUMENTATION:

I. *One* Document as Evidence of Your Child's Death

1. A certified copy or extract from the public records of death, coroner's report of death, or verdict of a coroner's jury.

2. A certificate by the custodian of the public record of death.

3. A statement of the funeral director or attending physician, or intern of the institution where death occurred.

4. A certified copy, or extract from an official report or finding of death made by an agency or department of the United States.

5. If death occurred outside the United States, an official report of death by a United States Consul or othe employee of the State Department, or a copy of public record of death in the foreign country.

6. If you cannot obtain any of the above evidence, you must submit other convincing evidence to ORA such as the signed statements of two or more people with personal knowledge of the death, giving the place, date, and cause of death.

II. *One* Document as Evidence of Your Parent-Child Relationship Natural Parent

1. A certified copy of a birth certificate that shows you to be the deceased eligible individual's parent.

2. A certified acknowledgment in writing signed by you before the eligible individual's death.

3. Any other evidence which reasonably supports a finding of such a parent-child relationship, such as a certified copy of the public record of birth or a religious record showing that you were the informant and were named as the parent of the deceased eligible individual.

4. Affidavits or sworn statements of persons who know that you had accepted the deceased eligible individual as his or her child.

5. Information obtained from a public agency or public records, such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, you were named as parent.

Adoptive Parent

1. A certified copy of the decree of adoption and such other evidence as may be necessary.

2. In jurisdictions where petition must be made to the court for release of such documents or information, or where release of such documents or information is prohibited, a revised birth certificate showing the person as the deceased eligible individual's parent will suffice.

III. Identification

A document with your current legal name and address. For example, you might send a bank or financial statement, or a monthly utility bill. Submit either a notarized copy or an original that you do not need back.

IV. *One* Document of Date of Birth

A certified copy of a birth certificate or a copy of another record of birth that has been certified by the custodian of the records. For example, you might send a copy of a religious record which shows your date of birth, or a hospital birth record. If you do not have any record of your birth, the Administrator will accept affidavits of two or more persons attesting to the date of your birth.

If your notification letter says that the Social Security Administration has confirmed your date of birth, you *do not* have to send any further evidence of your birth date.

V. *One* Document of Name Change

If your current legal last name is the same as the last name of the deceased eligible individual this section does not apply.

This section is only required for persons whose current legal last name is different from the last name of the deceased eligible.

1. A certified copy of the public record of marriage.

2. A certified copy of the divorce decree.

3. A certified copy of the court order of a name change.

4. Affidavits or sworn statements of two or more persons attesting to the name change.

VI. *One* Document of Evidence of Guardianship

If you are executing this document for the person identified as eligible, you must submit evidence of your authority.

If you are the legally-appointed guardian, committee, or other legally-designated representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an affidavit describing your relationship to the recipient or the extent to which you have the care of the recipient or your position as an officer of the institution in which the recipient is institutionalized.

Approved the 10th day of August, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89-19362 Filed 8-17-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Pennsylvania Regulatory Program; Civil Penalty Assessments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSMRE is announcing the approval of an amendment to the Pennsylvania permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment provides Pennsylvania's Department of Environmental Resources (DER) with the option to not assess a civil penalty for a Compliance Order violation when the calculated amount of the assessment is less than $1,000 and the violation does not relate to a discharge. The amendment is intended to give greater discretion to the State regulatory authority while maintaining consistency with the corresponding Federal regulations.

EFFECTIVE DATE: August 18, 1989.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Third Floor, Suite 3C, Harrisburg Transportation Center, 4th and Market Streets, Harrisburg, Pennsylvania 17101; Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program
II. Submission of Amendment
III. Director's Findings
IV. Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Pennsylvania Program

The Secretary of the Interior conditionally approved the Pennsylvania program on July 31, 1982. Information on the general background of the Pennsylvania program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval can be found in the July 30, 1982, **Federal Register** (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Submission of Amendment

By letter dated August 17, 1988 (Administrative Record No. PA 699), Pennsylvania proposed to amend its Program Guidance Manual at Section 1:3:6, paragraph 4 by replacing the mandatory civil penalty provision for each Compliance Order violation with a discretionary civil penalty provision. Under the existing Pennsylvania program, all assessments for violations cited on Compliance Orders are mandatory, regardless of their nature.

Following receipt of the proposed amendment by OSMRE, the DER discovered that the State's Civil Penalty Program document at Section II, paragraph 4 had to be revised to reflect the proposed change in the Program Guidance Manual. A proposal to amend the Civil Penalty Program document was submitted to OSMRE by letter dated June 21, 1989 (Administrative Record Number PA 780). The substantive content of the proposed revision to the Civil Penalty Program document is identical to the proposed change in the Program Guidance Manual with the added limitation that the violation not be related to a discharge. OSMRE is therefore treating the August 17, 1988, and June 21, 1989, submissions as one amendment since they concern the same substantive issue.

OSMRE announced receipt of the proposed amendment in the October 6, 1988, **Federal Register** (53 FR 39316), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. Comments were not solicited on the June 21, 1989, submission because the change submitted by the State was considered to be within the scope of the original proposal.

III. Director's Findings

The mandatory civil penalty provision for a Compliance Order violation was approved as part of Pennsylvania's Civil Penalty Program on March 20, 1984 (49 FR 10253), along with other civil penalty provisions. At that time, the Secretary of the Interior found that the program and its accompanying policy statements and guidance manuals provided for civil and criminal penalties no less stringent than those of Section 518 of SMCRA. The Secretary also found that the program's procedures for assessing and reviewing civil penalty assessments were the same as or similar to those in Section 518 of SMCRA and no less effective than those provided by 30 CFR part 845.

The proposed amendment will provide DER with the option to waive the civil penalty for any Compliance Order violation when the calculated assessed amount of the penalty is less than $1,000 and the violation does not relate to a discharge. This amendment will not affect Section 2, paragraph 3 of the Civil Penalty Program document which requires mandatory civil penalties when the assessment amount for a Compliance Order violation is $1,000 or greater.

The Federal counterpart at 30 CFR 845.12 requires a mandatory civil penalty for each violation assigned 31 or more points which, under the Federal assessment scheme, equates to $1,100. Thus, the proposed amendment provides for a mandatory civil penalty at a lower dollar level than do the Federal rules.

The U.S. District Court for the District of Columbia, in *In re: Permanent Surface Mining Regulation Litigation* (Civil Action 79-1144, February 26, 1980), ruled that SMCRA requires states to develop penalty systems incorporating the penalty criteria listed in section 518(a) of the Act and that these systems must result in the imposition of penalties no less stringent than those set forth in the Act; however, penalties need not be assessed in all cases where they would be under 30 CFR part 845, nor need penalty amounts be equivalent to those of 30 CFR part 845.

Under section 518(a) of SMCRA, the assessment of civil penalties by the regulatory authority is discretionary, except when a violation leads to the issuance of a cessation order. In determining the amount of penalty, a regulatory authority is required by section 518(a) to give consideration to: (1) The permittee's history of previous violations, (2) the seriousness of the violation, (3) whether the permittee was negligent; and (4) the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification. These criteria are present in Pennsylvania's system of assessment of civil penalties. Furthermore, the State's rules at 25 PA Code 86.193(a) provide for mandatory civil penalties for each violation which is included as a basis for a cessation order.