scope of subsection (j)(2) as discussed in § 505.13(a)). If any individual is denied any right, privilege, or benefit for which she/he would otherwise be eligible, as a result of the maintenance of such material, the material shall be provided to the individual, unless disclosure of the material would reveal the identity of a confidential source;

(c) *Subsection (k)(3).* Records maintained in connection with protection of the President and other VIPs accorded special protection by statute;

(d) *Subsection (k)(4).* Records required by statute to be maintained and used solely as statistical records;

(e) *Subsection (k)(5).* Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only if disclosure of the material would reveal the identity of a confidential source that furnished information to the Government;

(f) *Subsection (k)(6).* Testing or examination records used solely to determine individual qualifications for appointment or promotion in the Federal service when the disclosure of such would compromise the objectivity or fairness of the testing or examination process;

(g) *Subsection (k)(7).* Evaluation records used to determine potential for promotion in the armed services, but only if disclosure would reveal the identity of a confidential source.

(h) *Records of other agencies* Any Agency record system which contains information originated by another agency whose record system is exempt from certain provisions of the Act will not be disclosed by USIA. (See § 505.13, General Exemptions.)

§ 505.15 Exempt systems of records used.

USIA is authorized to use exemptions (k)(1), (k)(2), (k)(4), (k)(5), and (k)(6). The following Agency components currently maintain exempt systems of records under one or more of these specific exemptions: Executive Secretariat; Educational and Cultural Exchange Program; Legal Files; Privacy Act and Freedom of Information Act Files; Employee Grievance Files; Recruitment Records; Employee Master Personnel Records; Foreign Service Selection Board Files; Employee Training Files; Personnel Security and Integrity Records; International Broadcasting Bureau Director's Executive Secretariat Files; and International Broadcasting Bureau Employee Personnel Files. (See Appendix I—Prefatory Statement of General Routine Uses, 55 FR 31977, Aug. 6, 1990.)

Les Jin,

General Counsel.

[FR Doc. 96–24783 Filed 9–27–96; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 74

[AG Order No. 2056–96]

RIN 1190–AA42

Redress Provisions for Persons of Japanese Ancestry: Guidelines for Individuals Who Relocated to Japan as Minors During World War II

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice (''Department'') hereby adopts a change to the regulations governing redress provisions for persons of Japanese ancestry. This change will amend the standards of the Civil Liberties Act of 1988 to make eligible for payments of $20,000 those persons who are otherwise eligible for redress under these regulations, but who involuntarily relocated during World War II to a country with which the United States was at war. In practice, this amendment will make potentially eligible those persons who were evacuated, relocated, or interned by the United States Government; who, as minors, relocated to Japan or a country with which the United States was at war during World War II, and otherwise were unemancipated and lacked the legal capacity to leave the custody and control of their parents (or legal guardians) who chose to relocate to Japan during the war; and who did not enter active military service on behalf of the Japanese Government or another enemy government during the statutorily-defined war period.

EFFECTIVE DATE: September 30, 1996.

FOR FURTHER INFORMATION CONTACT: Tink D. Cooper or Emlei M. Kuboyama, Office of Redress Administration, Civil Rights Division, U.S. Department of Justice, PO Box 66260, Washington, DC 20035–6260; (888) 219–6900 (voice) (toll-free) or (202) 219–4710 (TDD).

SUPPLEMENTARY INFORMATION:

I. Background

The Civil Liberties Act of 1988, Pub. L. 100–383 (codified at 50 U.S.C. app. 1989 *et. seq.*, as amended) (''the Act''), enacted into law the recommendations of the Commission on Wartime Relocation and Internment of Civilians (''Commission'') established by Congress in 1980. *See* Commission on Wartime Relocation and Internment of Civilians Act, Pub. L. 96–317 (1980). This bipartisan commission was established: (1) 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; (2) 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 (3) 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 Aleuts during World War II. Redress Provisions for Persons of Japanese Ancestry, 54 FR 34,157 (1989). 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 Congress and the President. *Id.*

On August 10, 1988, President Ronald Reagan signed the Act into law. The purposes of the Act were 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. 50 U.S.C. app. 1989–1989a.

Section 105 of the Act makes the Attorney General responsible for identifying, locating, and authorizing payment of redress to eligible individuals. *Id.* 1989b–4. The Attorney General delegated the responsibilities and duties assigned to her to the Assistant Attorney General for Civil Rights, who, in keeping with precedent, has designated the Office of Redress Administration (ORA) in the Civil Rights Division to carry out the execution of the responsibilities and duties under the Act. The regulations governing eligibility and restitution were drafted by ORA and published under the authority of the Justice

Department in 1989. 54 FR 34,157 (1989) (final rule) codified at 28 CFR Part 74).

ORA is charged with the responsibility of identifying and locating persons eligible for redress under the Act. To date, restitution has been paid to a total of 79,980 Japanese Americans and permanent resident aliens of Japanese ancestry.

Section 108 of the Act articulates the standards for redress eligibility. 50 U.S.C. app. 1989b–7(2). Among those excluded from eligibility under that section are persons ''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 * * *'' *Id.* As part of a citizen exchange program during World War II, the United States returned formerly interned persons of Japanese ancestry to Japan on two occasions. On June 18, 1942, approximately 1,083 persons of Japanese ancestry returned to Japan aboard the M.S. *Gripsholm*, and on September 2, 1943, the *Gripsholm* returned another 1,340 persons of Japanese ancestry to Japan. A number of these persons asserted claims for redress based on their evacuation and internment by the United States Government prior to their relocation to Japan. However, based on section 108 of the Act and 28 CFR 74.4, ORA found them ineligible for redress. 54 FR 34,162 (1989). In all, 175 persons who relocated to Japan aboard the *Gripsholm* claimed compensation under the Act; approximately 124 of these claimants were persons who were under the age of 21 upon their departure from the United States. ORA's denial of redress to these claimants was upheld during the administrative appeal process set forth in 28 CFR 74.17. 54 FR 34,164–65 (1989).

It is helpful to describe the circumstances of these individuals. The West Coast voluntary evacuation period began with the issuance of Proclamation No. 1, on March 2, 1942, and ended with the issuance of Proclamation No. 4, effective on March 29, 1942. After this date, persons of Japanese ancestry were prohibited from leaving the West Coast because the Government was preparing to forcibly relocate and intern them later. Over 120,000 Japanese Americans were eventually interned. Of these 120,000, approximately 124 were minor children whose parents decided to depart the United States for Japan during the war on one of the M.S. *Gripsholm* sailings prior to September 2, 1945. The majority of the passengers on the first sailing were Japanese diplomats, while many of the passengers on the second sailing were American citizens or permanent resident aliens. Also aboard were some Japanese nationals who had left Japan to live and work in the United States and who, by law, were ineligible to apply for United States citizenship. Many of these individuals returned to Japan with their American-born children.

These American children persevered through an arduous period during which they were forcibly evacuated from their homes on the West Coast and interned with their parents. The minors were unable legally to return to their homes in the prohibited military zones on the West Coast and were required to travel to Japan with their parents on a long and difficult journey.

The loyalty of most of these American children, however, apparently never waned. According to ORA research, the vast majority of them did not enter into the active military service on behalf of an enemy government during World War II. Furthermore, almost all returned to the United States after the war. Out of the approximately 124 minors who have filed for redress, and who relocated to Japan with their parents during World War II, 108 subsequently returned to the United States, while only 16 remained in Japan.

II. Responses to Public Comments

As a result of this revised interpretation, more fully discussed below, the Civil Rights Division published a Notice of Proposed Rulemaking in the Federal Register, 61 FR 29716 (June 12, 1996), inviting the public to submit comments on this proposed category of eligible persons. The comment period expired on July 12, 1996.

By the close of the comment period, the Division had received 1,152 timely comments. Of these comments, 1,096 were based on a form letter which requested that the rulemaking process be expedited. Of the remaining comments, 51 were from individuals, 3 were from various organizations representing the interests of Japanese Americans, and 2 were from organizations that opposed this interpretation. Of these original comments, 45 were in support of the revision while 11 comments were against the revision. Also, a few comments were not timely filed as indicated by the postmark and were not considered. The Department read and analyzed each comment and considered the merits of the points of view expressed in them.

The vast majority of comments indicated support for this provision. The 1,096 form letters were favorable and requested that the regulatory process be expedited. There were also 45 comments (42 individual letters, 3 organization letters) in support of the amendment changes. Twenty-eight of the letters supported the amendments and generally asserted that the children of the internees suffered as much as their parents had during the evacuation and relocation period, since the children themselves were interned as well as being subjected to the war-time conditions in Japan following their relocation. Several letters echoed this sentiment and indicated that minors did not have the ability to freely choose to relocate to Japan during the war, and that the prisoner exchange was unjust. Several elected officials, including U.S. Senator Paul Wellstone, favorably agreed with this amendment. One person was in favor of this proposal but mistakenly believed that anyone who returned to Japan at any time would now be eligible; to the contrary, those persons who returned to Japan before the start of World War II, remained in Japan throughout the war, will remain ineligible.

In addition, there were several comments that opposed this revision and indicated that the Act's original exclusionary language in section 108 should apply to all persons, regardless of age, who relocated to Japan during World War II. There were 11 comments (9 individual letters, 2 organization letters) opposed to making this category of claimants eligible for redress. These comments raised four main issues: (1) That it was wrong to extend redress solely to Japanese Americans without extending compensation to those of German and Italian descent and their children who were similarly situated; (2) that the American children of Japanese parents were not forcibly removed from their homes, but rather their parents as their natural guardians made the decision for them; (3) that these children, American-born with Japanese parents, had dual nationality and were technically citizens of Imperial Japan under Japanese law, and were not American citizens; and (4) that, in light of the federal government's current budgetary crisis, such expensive outlays were not justified.

The Department has considered the merit of each of these comments and disagrees with the viewpoints that were expressed. First, the Department notes that it is compelled to comply with the laws established by Congress and is fulfilling its mandate. In response to the comments, the Department notes that the purpose of the Act was to provide compensation for the injustices suffered by Japanese Americans during World

War II as a result of specific Federal Government action based solely on their Japanese ancestry. A Federal appeals court has determined that Congress' decision to compensate only those of Japanese ancestry who sustained deprivations of liberty or property as a result of defined Federal Government actions during World War II survives constitutional scrutiny. *Jacobs* v. *Barr*, 959 F.2d 313 (D.C. Cir.) *cert. denied*, 113 S.Ct. 95 (1992). In *Jacobs*, an American child of German ancestry, who was detained in an internment camp during the war with his father but was ineligible for redress under the Act, challenged the Act on equal protection grounds. Jacobs argued that he was similarly situated with respect to Japanese Americans who received compensation. The court indicated that Congress found that there was no mass exclusion or detention ordered against American citizens of German or Italian descent. *Id.* at 319. It also concluded that the Act survived the strictest level of scrutiny and that Congress' decision to compensate Japanese Americans and not German Americans was ''substantially related (as well as narrowly tailored) to the important (and compelling) governmental interest of compensating those who were interned during World War II because of racial prejudice.'' *Id.* at 321.

Second, one of the threshold requirements for eligibility under the Act is U.S. citizenship or permanent residency status during the defined statutory period. In each case, minor relocatees who will be eligible for redress were American-born and meet the other criteria required by the Act. It is contrary to the law to assert that children born in the United States are not American citizens, but are technically citizens of another country. The doctrine of ''jus soli,'' incorporated into the United States Constitution through the Fourteenth Amendment, makes, with certain limited exceptions, all persons born in the United States and subject to its jurisdiction citizens at birth. *See* U.S. Const., amend. XIV, section 1; 8 U.S.C. 1401(a). (Persons born to certain foreign diplomats in the United States do not necessarily obtain U.S. citizenship at birth since their parents have diplomatic immunity and are therefore not subject to the jurisdiction of the United States.)

Third, we note that the minor relocatees did not make a knowing and voluntary decision to relocate to Japan. The Department has concluded that section 108 should not be construed to make ineligible for redress those persons who relocated involuntarily. (See Section III for a detailed legal discussion of this issue.) Finally, Congress appropriated funds to provide redress to these claimants and the Department is fulfilling its designated role.

The Department reviewed and analyzed each comment and considered the merits of the points of view expressed in them. Substantive changes were not made in the proposals, but other non-substantive changes were made in order to provide further clarification of this amendment.

III. Revised Interpretation

Following publication of the draft regulations in 1989, the Department received 61 comments concerning the eligibility of persons who, as minors, relocated to Japan aboard the *Gripsholm*. Based on the comments received at that time, however, it found no reason to differentiate between adults who returned to Japan during World War II and minors. As a result, in the preamble of the final regulation, the Department stated that ''the exclusionary language of the Act would preclude from eligibility the minors, as well as adults, who were relocated to Japan during [the relevant] time period.'' 54 FR 34,160 (1989).

The Department, based on an argument not previously presented, now revises its interpretation regarding the eligibility of persons who relocated to Japan during World War II. Specifically, it revises its determination of eligibility with regard to persons who were under the age of 21 and not emancipated as of their dates of departures from the United States, who did not participate in the active military service on behalf of an enemy government during World War II, and who are otherwise eligible for redress under these regulations.

In effecting this revision, the Department is operating within the established framework of *Chevron* versus *N.R.D.C.*, 467 U.S. 837, 842–43. Under *Chevron*, an agency must give effect to the unambiguously expressed intent of Congress when interpreting a statute. However, where an act is silent or ambiguous with respect to a specific issue, Congress has assigned to the agency the responsibility to elucidate a specific provision of the statute by regulation. *Id.* at 843–44. For the reasons set forth below, the Department believes that the proscription of section 108 is ambiguous with respect to its coverage of the class of individuals described above, and that the revision is a reasonable interpretation of the statute.

As enacted, section 108 expressly excludes from eligibility ''any individual who, during the period beginning on December 7, 1941, and ending on September 2, 1945, *relocated* to (another) country while the United States was at war with that country.'' 50 U.S.C. app. 1989b–7 (emphasis added). This language does not specifically resolve whether the exclusion applies to individuals who relocated involuntarily.

This issue is suggested on the face of the statute when it is read as a whole because, while the statute uses the active voice in section 108's exclusion clause, the eligibility clauses of the statute use the passive voice. For example, section 108 begins by defining an ''eligible individual'' as a person of Japanese ancestry ''who, during the evacuation, relocation and internment period— * * * *was* confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of * * * (various Executive Orders and Acts).'' 50 U.S.C. app. 1989b–7(2) (emphasis added). Title II of the Act, which provides reparations to Aleuts evacuated from their home islands during World War II, similarly defines an eligible Aleut as a person ''who, as a civilian, *was* relocated by authority of the United States from his or her home village * * * to an internment camp * * *.'' 50 U.S.C. app. 1989c–1(5) (emphasis added). The contrasting use of the active voice in the exclusion clause suggests the possibility that section 108 might be read to exclude only those individuals who voluntarily relocated to an enemy country during the war.

This possibility is consistent with judicial decisions. The United States Courts of Appeals for the District of Columbia and the Ninth Circuit have deemed the use of the active as opposed to the passive voice relevant for purposes of statutory interpretation. *Dickson* versus *Office of Personnel Mgmt.*, 828 F.2d 32, 37 (D.C. Cir. 1987) (isolated use of passive voice in phrase defining liability is significant and allows suit against Office of Personnel Management whenever an adverse determination ''is made,'' even if by another agency); *United States* versus *Arrellano*, 812 F.2d 1209, 1212 (9th Cir. 1987) (clause of statute defining criminal intent phrased in active voice applies to conduct of the accused, while second clause phrased in passive voice applies only to the conduct of others). Thus, the statutory language creates an ambiguity as to whether eligibility decisions should distinguish between voluntary relocatees and involuntary relocatees. For the reasons that follow, we believe the better interpretation is to exclude only individuals who relocated voluntarily.

The Act's legislative history provides very little significant insight into congressional intent regarding the eligibility of involuntary relocatees. As originally introduced, neither the House nor the Senate bill included a relocation exclusion provision in the section defining eligible individuals. Entering conference, the House version of the Act contained the exclusion, while the Senate version contained no such provision. The conferees agreed to adopt the House provision, which excluded ''those individuals who, during the period from December 7, 1941, through September 2, 1945, relocated to a country at war with the United States.'' H.R. Conf. Rep. No. 785, 100th Cong., 2d Sess. 22 (1988). There is no additional discussion of the relocation exclusion in the conference report.

A discussion of whether individuals who returned to Japan should be included in the definition of ''eligible individuals'' is contained in a witness statement submitted to the House and Senate subcommittees considering the legislation. In testimony opposing the enactment of the bill, the Assistant Attorney General for the Civil Division, Richard K. Willard, noted that as then written (without the relocation exclusion), the breadth of the definition would cover any individual who had been subject to exclusion, relocation, or internment, including persons living outside of the United States. In the Department's view, this overlooked the fact that at least several hundred of the detainees were ''fanatical pro-Japanese,* * *. and (had) voluntarily sought repatriation to Japan after the end of the war.'' The Department believed that allowing these disloyal individuals to receive the benefit of the legislation would be unfair to the United States and to loyal persons of Japanese descent. To accept the Findings and to Implement the Recommendations of the Commission on Wartime Relocation and Internment of Civilians: Hearing on S. 1009 Before the Subcomm. on Federal Services, Post Office, and Civil Service of the Senate Comm. on Governmental Affairs, 100th Cong., 1st Sess. 281, 296 (1987) (Hearings). This statement, however, does not reveal or suggest an opinion that the bill ought to exclude from redress persons who *involuntarily* relocated to an enemy country.

In sum, the Department believes that section 108's exclusion of persons who relocated to an energy country during World War II is susceptible to the interpretation that it does not apply to persons who relocated involuntarily, that so interpreting the statute gives effect to the principles Congress meant to embody in the exclusionary provision, and that this interpretation is otherwise a reasonable construction of the statute.

The Department further notes that the determination of whether a person relocated voluntarily to an enemy country during World War II is extraordinarily difficult to determine at this late date, over half a century since the period during which the actions that are relevant to a determination about the state of mind of individual relocatees took place. Under these circumstances, the Department has discretion to structure the process for determining redress eligibility in a manner that avoids the inherent inaccuracy of any attempt to engage in a case-by-case inquiry into the subjective factor of state of mind, as well as the potential administrative burdens associated with case-by-case inquiry, by articulating some reasonable, objective criteria to guide the process.

To that end, the final rule adopts two bright line standards to administer section 108's exclusion provision. First, any person who was 21 years of age or older, emancipated by petition of the court or by marriage, or otherwise emancipated, as of the date of his or her departure from the United States, shall be irrebuttably presumed to have relocated voluntarily, and will be ineligible for redress under the Act. Second, any person who served in the Japanses military, or the military of another enemy country, during the statutorily-defined war period shall be irrebuttably presumed to have relocated voluntarily and, therefore, will be ineligible for redress. All otherwise eligible persons falling outside these categories, that is, persons who were minors and not otherwise emancipated as of the dates of their departures from the United States and who did not serve in the Japanese military or the military of another enemy government during the statutorily-defined war period, shall be considered involuntary relocatees and therefore eligible for redress under the Act.

The Supreme Court has affirmed the ability of agencies to employ generally applicable rules as an alternative to case-by-case adjudication. *See, e.g., American Hospital Ass'n* v. *NLRB,* 499 U.S. 606, 611 (1991) (''Prior decisions of this Court) confirm that, even if a statutory scheme requires individualized determinations, the decision-maker has the authority to rely on rulemaking to resolve certain issues of general applicability unless Congress clearly expresses an intent to withhold that authority.''). In particular, the Court has noted that the Congress is free to use prophylactic rules despite their ''inherent imprecision'' when it wishes to avoid ''the expense and other difficulties of individual determinations.'' *Weinberger* v. *Salfi,* 422 U.S. 749, 777 (1975).

The Department believes that under *American Hospital Ass'n* and other authorities agencies enjoy a similar latitude to that enunciated in *Weinberger.* As in *Weinberger,* justifying the use of such bright-line rules does not require determining whether the rules ''precisely filter [] out those, and only those, who are in the factual position which generated the congressional concern * * * (n) or * * * whether (they) filter [] out a substantial part of the class which caused the * * * concern, or whether (they) filter [] out more members of the class than nonmembers.'' *Id.* Rather, the question is whether the Department could ''rationally have concluded both that * * * particular (rules) would protect against (the abuse Congress sought to avoid), and that the expense and other difficulties of individualized determinations justified (their) inherent imprecision.'' *Id.* For the reasons that follow, the final rule satisfies this standard.

As stated above, the final rule applies an irrebuttable presumption that persons who were 21 years of age or older, emancipated by petition of the court or by marriage, or otherwise emancipated as of the dates of their departures from the United States, were voluntary relocatees. The Department proposes to apply this irrebuttable presumption because adult relocatees were more likely than minor relocatees to have been able to assent freely to their relocation to Japan. The age of 21 as of the date of departure was chosen because, during the period covered by the Act's relocation exclusion, the legal age of majority in most states was 21.

Noting the dearth of legislative history pertaining to the Act's exclusion clause, the United States Court of Federal Claims stated in *Suzuki* v. *United States,* 29 Fed. Cl. 688 (1993), that Congress may have enacted the exclusion clause in an effort to deny benefits to individuals who had either been disloyal to the United States or ''who, despite possible continued loyalty to the United States, had aided an energy country during war.'' *Id.* at 695. Nothing in the Department's revised interpretation of section 108 is inconsistent with this observation, since both of the possible purposes cited by the court assume volition on the part of the relocatee to leave the United States and relocate to Japan. If, by contrast, an individual relocatee was not free to

assent to his or her relocation on account of his or her minority status, it is reasonable for the Department to conclude that such individual was not the type of person against whom Congress intended to apply section 108's exclusion provision. By itself the relocation of minors during World War II does not raise doubts or inferences concerning disloyalty. In fact, most American-born minor relocatees returned to the United States following the war.

Examples of distinctions in the treatment of minors and adults abound in our law. *See Thompson* v. *Oklahoma,* 487 U.S. 815, 823 (1988) (plurality opinion). Accordingly, it is reasonable for the Department to apply such a distinction in determing whether individuals who relocated to Japan during the statutorily-defined war period did so voluntarily.

The final rule also applies an irrebuttable presumption the individuals who served in the military of an enemy government during the statutorily-defined war period relocated voluntarily because the Department believes that evidence that an individual entered into the active military service on behalf of an enemy government following his or her departure from the United States is a strong indication that the individual relocated voluntarily. In view of that reasonable belief and the fact that it is difficult at this time to determine with complete certainty the motivations of individuals who entered the active military service against the United States during World War II, and in light of the increased administrative burdens associated with individualized efforts to ascertain the 50-year old motivations of such individuals, the Department believes it is appropriate to interpret the fact that an individual served in the military of an enemy government following his or her relocation as evidence that the individual relocated voluntarily.

The Department will thus require individuals who apply for redress under the Act and who relocated to Japan during the statutorily-defined war period to provide information as to their ages and emancipation status upon their dates of departure from the United States to relocate to Japan, and to state whether or not they participated in the active military service on behalf of an enemy government, including the Japanese Government, during World War II. If such individuals state that they were 21 years of age or older, or emancipated minors, as of the dates of their departures, they will be deemed ineligible for redress under the Act. Similarly, if such individuals state that they participated in the active military service on behalf of an enemy government during World War II, they also will be deemed ineligible. In contrast, otherwise eligible relocatees who were under the age of 21 and not otherwise emancipated upon the dates of their departures from the United States, and who did not serve in the military on behalf of an enemy government during World War II, will be eligible for redress under the Act.

IV. Regulatory Matters

This rule relieves a restriction upon individuals otherwise eligible for redress under the Act and is therefore exempt from the provision of the Administrative Procedures Act pertaining to delay in effective date. 5 U.S.C. 553(d). Moreover, the Department has determined that this final rule will be effective immediately upon publication in the Federal Register for good cause shown, *i.e.*, to expedite these claims, since involuntary relocatees are some of the older claimants and at least four persons, potentially eligible under this revision, have since passed away; to process the current claims as quickly as possible because of budgetary concerns and the program's sunset date of August 10, 1998; and to resolve a pending lawsuit in the U.S. Court of Federal Claims involving 14 plaintiffs who were minor children during the war and who will be potentially eligible under this revision.

The Attorney General in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities because this rule confers a benefit on a limited group of individuals.

The Office of Management and Budget has determined that this final rule is a significant regulatory action under Executive Order No. 12866 and, accordingly, this final rule has been reviewed and approved by the Office of Management and Budget. Information collection associated with this regulation has been approved by the Office of Management and Budget, OMB No. 1190–0010.

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, part 74, of the Code of Federal Regulations is amended as follows:

PART 74—CIVIL LIBERTIES ACT REDRESS PROVISION

1. The authority citation for part 74 continues to read as follows:

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

2. In Subpart B, § 74.4 is revised to read as follows:

Subpart B—Standards of Eligibility

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

(a) 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.

(b) Nothing in paragraph (a) of this section is meant to exclude from eligibility any person 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, and who had not yet reached the age of 21 and was not emancipated as of the date of departure from the United States, provided that such person is otherwise eligible for redress under these regulations and the following standards:

(1) Persons who were 21 years of age or older, or emancipated minors, on the date they departed the United States for Japan are subject to an irrebuttable presumption that they relocated to Japan voluntarily and will be ineligible.

(2) Persons who served in the active military service on behalf of the Government of Japan or an enemy government during the period beginning on December 7, 1941 and ending on September 2, 1945 are subject to an irrebuttable presumption that they departed the United States voluntarily for Japan. If such individuals served in the active military service of an enemy country, they must inform the Office of such service and, as a result, will be ineligible.

Dated: September 21, 1996.

Janet Reno,

Attorney General.

[FR Doc. 96–25027 Filed 9–27–96; 8:45 am]

BILLING CODE 4410–10–M