into trust; the availability of applications for review; and the use of computer technology prior to the proposal of a new Acquisition of Title to Land in Trust rule.

The Department has determined that the withdrawal of the final rule entitled “Acquisition to Title to Land in Trust” must be effective immediately in order to prevent its becoming effective upon the expiration of the notice of delay as published on August 13, 2001, (66 FR 42415), and to allow for the current 25 CFR Part 151 to remain in effect during the pendency of the development of a new rulemaking addressing this matter. The Department, therefore, shows good cause for the immediate effective date of this rule in accordance with 5 U.S.C. 553(d).


Neal A. McCaleb, Assistant Secretary—Indian Affairs.

[FR Doc. 01–28222 Filed 11–8–01; 8:45 am]
22(D) within the Kougarok, Kuzitrin and Pilgrim River drainages, and Unit 22 (D) west of the Tisuk River and Canyon Creek were all scheduled to close on September 14 for both resident and nonresident hunters. Unit 22(E) was scheduled to close on December 31 for both residents and nonresident hunters and the harvest limit for residents was changed from one moose to one antlered bull. The harvest limit for nonresidents remained the same, at one bull with 50-inch antlers or antlers with 4 or more brow tines on one side. The state’s justification for this action was that moose populations in Unit 22(E) and the road accessible portions of Units 22(B) and (D) cannot sustain recent harvest levels, and that recent surveys indicated moose densities, recruitment rates and bull:cow rations in Unit 22(D) are low and declining.

On July 31, 2001 the Federal Subsistence Board approved emergency action (effective for 60 days) to make similar adjustments in the Federal Subsistence Harvest Regulations. In addition, these areas of concern were closed to the taking of moose except by Federally-qualified subsistence users, as recommended by the Seward Peninsula Subsistence Regional Advisory Council. The specific changes were to close the harvest season in Unit 22(B) west of the Darby Mountains on September 14, and close Federal public lands to the taking of moose except by Federally-qualified subsistence users. In Unit 22(D)—that portion within the Kuzitrin River drainage, the season was reduced to August 1–September 14 and Federal public lands were closed to the taking of moose except by Federally-qualified subsistence users. In Unit 22(D)—that portion west of the Tisuk River drainage and Canyon Creek the season and harvest limits remained unchanged, however, the Federal public lands were closed to the taking of moose except by Federally-qualified subsistence users. In Unit 22(E) the harvest limit was changed from one moose to one bull, the season was scheduled to close on December 31 and Federal public lands were closed to the taking of moose except by Federally-qualified subsistence users.

On September 26, 2001 a public meeting was held in Nome, Alaska to obtain public comments on a request from the Seward Peninsula Regional Advisory Council to continue the existing emergency action through the remainder of the regulatory season. The Regional Council also requested that Federal public lands in Unit 22(B) west of the Tisuk River drainage be closed to the taking of moose except by residents of Unit 22(B), and that harvest quota be established for a winter hunt to take place January 1–31, 2002.

On September 27, 2001 the Federal Subsistence Board approved, with modification, temporary action to reduce the length of the harvest season in Unit 22B—west of the Darby Mountains Unit 22(D) that portion within the Kuzitrin River drainage, Unit 22(D) that portion west of the Tisuk River drainage and Canyon Creek, and Unit 22(E). The Unit 22(E) harvest limit was also changed to “one bull” and Federal public lands were closed to the taking of moose except by Federally-qualified subsistence users. The resulting open seasons and harvest limits are: Unit 22(B) West of the Darby Mountains—No Federal open season; Unit 22(D) that portion within the Kuzitrin River drainage—No Federal open season; Unit 22(D) that portion west of the Tisuk River drainage and Canyon Creek—No Federal open season; and Unit 22(E), one bull; Federal public lands are closed to the taking of moose except by Federally-qualified subsistence users—August 1–December 31.

These regulatory actions were necessary to address a conservation concern. Reducing the season length and eliminating the cow harvest in Unit 22(E) was requested by the local communities of Shishmaref and Wales and would help to address the area moose population conservation concerns while still providing some harvest opportunity. Closing harvests in the Kuzitrin and Tisuk River/Canyon Creek portions of Unit 22(D), and in Unit 22(B) west of the Darby Mountains would conserve already declining moose populations, with the support of the effected communities. These subunit changes in the Federal moose harvest parallel recent changes in State regulations made through an emergency order issued by the Alaska Department of Fish and Game. Closing Federal public lands to non-Federally qualified moose hunters in Unit 22(E) would provide continued opportunity and priority for local subsistence hunters during a time when the resources (moose) are limited due to recent population declines and conservation concerns.

The Federal Subsistence Board expressed it’s intention to consider additional action prior to January 2002, to provide for a winter harvest season in Unit 22(B) west of the Darby Mountains.

Unit 8 Deer

Sitka black-tailed deer populations in Unit 8 suffered moderate winter kills in 1997–98 and winter mortality on Kodiak Island was very heavy during the 1998–99 winter, with at least 50% of the population suspected to have perished. The pre 1997 population was estimated at 80,000–100,000. After the sever kills of 1998–99, the deer population was estimated at about 40,000 animals. Approximately 65–70% of the population occur on Federal public lands. The minimum population objective determined by the Alaska Department of Fish and Game for Unit 8 is 73,530 deer with a harvest objective of 8,000 deer.

Since the Sitka black-tailed deer population was established in the area between 1924 and 1934, deer populations have been known to decline following a series of severe winters, and have also been observed to recover rapidly when winter conditions are favorable.

At their regular Spring meeting in March 2001, the Alaska Board of Game reduced the state harvest limit of deer in a portion of Unit 8 from 4 deer to 3 deer. This action was taken to promote population recovery. At the same time, the Kodiak/Aleutians Subsistence Regional Advisory Council, at their Spring meeting in Old Harbor, Alaska, requested the Federal Subsistence Board reduce the Federal harvest limit of 5 deer to 3 deer.

On June 14, 2001 the Federal Subsistence Board adopted the special action request. This emergency action, effective for 60 days (August 1 through September 29, 2001) reduced the harvest limit from 5 deer to 3 deer. The resulting regulation read: Unit 8—deer, that portion of Kodiak Island and adjacent islands south and west of a line from the head of Terror Bay to the head of the southwestern most arm of Ugak Bay, 3 deer; August 1–January 31; however, antlerless deer may be taken only from October 1–January 31. Unit 8—deer, remainder, 3 deer, August 1–January 31; however, antlerless deer may be taken only from October 1–January 31; no more than 1 antlerless deer may be taken from October 1–November 30.

On August 28, 2001 a public meeting was held in Kodiak, Alaska on behalf of the Federal Subsistence Board to obtain public comments on a possible extension of the existing emergency action through the remainder of the regulatory season. Public testimony at the meeting was unanimous in favor of extending the reduced harvest limits through the remainder of the regulatory season. In addition, the Alaska Department of Fish and Game recommended that the Federal regulations be adjusted to mirror the State harvest limits so that deer can be managed without complications. This
would involve a modification to the
subunit boundaries and the
discontinuance of antlerless deer
harvest in October and November under
Federal regulations.

On September 20, 2001, the Kodiak/
Aleutian Regional Advisory Council, at
its meeting in Sand Point, Alaska,
considered the August 28 public
meeting testimony and recommended
the Federal Subsistence Board extend
the existing emergency action through
the remainder of the regulatory season
without modification.

On September 27, 2001, the Federal
Subsistence Board, recognizing that a
conservation concern still exists,
approved the temporary action to
continue the reduction in harvest limit
from 5 deer to 3 deer, through the
remainder of the regulatory season. This
regulatory action was intended to aid in
the population recovery of the deer herd
in Unit 8. The deer population is still
considerably lower than previous years.
The overall deer population will also
depend on the severity of the upcoming
winter.

The Board finds that additional public
notice and comment requirements
under the Administrative Procedure Act
(APA) for these emergency actions are
impracticable, unnecessary, and
counter to the public interest. Lack of
appropriate and immediate conservation
measures could seriously affect the
continued viability of wildlife
populations, adversely impact future
subsistence opportunities for rural
Alaskans, and would generally fail to
serve the overall public interest. Therefore,
the Board finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to
waive additional public notice and
comment procedures prior to
implementation of these actions and
pursuant to 5 U.S.C. 553(d) to make this
rule effective as indicated in the DATES
section.

Conformance With Statutory and
Regulatory Authorities

National Environmental Policy Act
Compliance

A Final Environmental Impact
Statement (FEIS) was published on
February 28, 1992, and a Record of
Decision on Subsistence Management
for Federal Public Lands in Alaska
(ROD) signed April 6, 1992. The final
rule for Subsistence Management
Regulations for Public Lands in Alaska,
Subparts A, B, and C (57 FR 22940–
22964, published May 29, 1992)
implemented the Federal Subsistence
Management Program and included a
framework for an annual cycle for
subsistence hunting and fishing
regulations. A final rule that redefined
the jurisdiction of the Federal
Subsistence Management Program to
include waters subject to the
subsistence priority was published on
January 8, 1999, (64 FR 1276.)

Compliance With Section 810 of
ANILCA

The intent of all Federal subsistence
regulations is to accord subsistence uses
of fish and wildlife on public lands a
priority over the taking of fish and
wildlife on such lands for other
purposes, unless restriction is necessary
to conserve healthy fish and wildlife
populations. A Section 810 analysis was
completed as part of the FEIS process.
The final Section 810 analysis
determination appeared in the April 6,
1992, ROD which concluded that the
Federal Subsistence Management
Program, under Alternative IV with an
annual process for setting hunting and
fishing regulations, may have some local
impacts on subsistence uses, but the
program is not likely to significantly
restrict subsistence uses.

Paperwork Reduction Act

The temporary changes do not contain
information collection requirements
subject to Office of Management and
Budget (OMB) approval under the

Other Requirements

These temporary changes have been
exempted from OMB review under
Executive Order 12866.

The Regulatory Flexibility Act of 1980
(5 U.S.C. 601 et seq.) requires
preparation of flexibility analyses for
rules that will have a significant effect
on a substantial number of small
entities, which include small
businesses, organizations, or
governmental jurisdictions. The exact
number of businesses and the amount of
deal that will result from this Federal
land-related activity is unknown. The
aggregate effect is an insignificant
economic effect (both positive and
negative) on a small number of small
entities supporting subsistence
activities, such as boat, fishing tackle,
and gasoline dealers. The number of
small entities affected is unknown; but,
the effects will be seasonally and
geographically-limited in nature and
will likely not be significant. The
Departments certify that the temporary
changes will not have a significant
economic effect on a substantial number
of small entities within the meaning of
the Regulatory Flexibility Act.

Title VIII of ANILCA requires the
Secretaries to administer a subsistence
preference on public lands. The scope of
this program is limited by definition to
certain public lands. Likewise, the
temporary changes have no potential
takings of private property implications
as defined by Executive Order 12630.

The Service has determined and
certifies pursuant to the Unfunded
Mandates Reform Act, 2 U.S.C. 1502 et
seq., that the temporary changes will not
impose a cost of $100 million or more
in any given year on local or State
governments or private entities. The
implementation is by Federal agencies,
and no cost is involved to any State or
local entities or Tribal governments.

The Service has determined that the
temporary changes meet the applicable
standards provided in Sections 3(a) and
3(b)(2) of Executive Order 12988,
regarding civil justice reform.

In accordance with Executive Order
13132, the temporary changes do not
have sufficient federalism implications
to warrant the preparation of a
Federalism Assessment. Title VIII of
ANILCA precludes the State from
exercising management authority over fish
and wildlife resources on Federal
lands.

In accordance with the President’s
memorandum of April 29, 1994,
“Government-to-Government Relations
with Native American Tribal
Governments” (59 FR 22951), Executive
Order 13175, and 512 DM 2, we have
evaluated possible effects on Federally
recognized Indian tribes and have
determined that there are no effects. The
Bureau of Indian Affairs is a
participating agency in this rulemaking.

On May 18, 2001, the President issued
Executive Order 13211 on regulations
that significantly affect energy supply,
distribution, or use. This Executive
Order requires agencies to prepare
Statements of Energy Effects when
undertaking certain actions. As these
actions are not expected to significantly
affect energy supply, distribution, or
use, they are not significant energy
actions and no Statement of Energy
Effects is required.

Drafting Information

Daniel LaPlant drafted this document
under the guidance of Thomas H. Boyd,
of the Office of Subsistence
Management, Alaska Regional Office,
U.S. Fish and Wildlife Service,
Anchorage, Alaska. Taylor Brelsford,
Alaska State Office, Bureau of Land
Management; Greg Bos, Alaska Regional
Office, U.S. Fish and Wildlife Service;
Sandy Rabinowitch, Alaska Regional
Office, National Park Service; Ida
Hildebrand, Alaska Regional Office,
Bureau of Indian Affairs; and Ken
Thompson, USDA-Forest Service,
provided additional guidance.
DEPARTMENT OF VETERANS AFFAIRS
38 CFR Part 3
RIN 2900–AK25
Written and Oral Information or Statements Affecting Entitlement to Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations to eliminate the requirement that beneficiaries advise VA of changes affecting entitlement to benefits in writing. This allows VA to increase or decrease benefit payments based on information submitted orally or by e-mail, facsimile, or other electronic means and makes it easier for beneficiaries to submit information that they must provide. This document also amends our notice requirements to allow VA to reduce or terminate benefit payments based on information reported orally without issuing a 60-day advance notice, but only under certain conditions that ensure that claimants are not deprived of benefits without adequate notice. This will reduce the amounts of any overpayments created by these actions.

DATES: Effective Date: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Donald England, Chief, Policy and Regulations Staff (211A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7210. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 20, 2001, we published in the Federal Register (66 FR 20220–23) a proposed rule to amend the adjudication regulations to permit contemporaneous notice of benefit reductions based on orally-provided evidence of changes in income, marital status or the number of dependents, affecting their entitlement to benefits, and to establish safeguards to ensure that VA adjusts benefit payments based only on information provided by the beneficiary (or his or her fiduciary) and that the information provided is documented for VA records.

We requested interested persons to submit comments on or before June 19, 2001. We received no comments. Based on the rationale set forth in the proposed rule and in this document, we are adopting the proposed rule as a final rule without substantive change, except that we are adding statements explaining that the information collections are approved by the Office of Management and Budget (OMB) under control number 2900–0624.

Paperwork Reduction Act

VA submitted the information collection provisions contained in this final rule to OMB for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The action concerning information collection is to change the allowable means of collection of information. We requested interested parties to submit comments on the collection of information provisions to OMB by June 19, 2001. No comments were submitted. OMB has approved the information collection provisions under control number 2900–0624. OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This amendment would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3


Approved: September 13, 2001.

Anthony J. Principi,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.103 is amended by:

A. Revising paragraph (b)(2) heading and revising paragraphs (b)(3) introductory text and (b)(3)(i).
B. Removing “is” from paragraphs (b)(3)(ii), (b)(3)(iv), (b)(3)(v) and (b)(3)(vi).
C. Removing the comma at the end of paragraphs (b)(3)(ii), (b)(3)(iii) and (b)(3)(iv), and adding, in its place, a period.
D. Removing “,” or” at the end of paragraph (b)(3)(v) and adding, in its place, a period.
E. Adding paragraph (b)(4).
F. Revising the authority citation at the end of the section.

The addition and revisions read as follows:

§ 3.103 Procedural due process and appellate rights.

* * * * *

(b) * * *

(2) Advance notice and opportunity for hearing. * * *

(3) Exceptions. In lieu of advance notice and opportunity for a hearing, VA will send a written notice to the beneficiary or his or her fiduciary at the same time it takes an adverse action under the following circumstances:

(i) An adverse action based solely on factual and unambiguous information or statements as to income, net worth, or dependency or marital status that the beneficiary or his or her fiduciary provided to VA in writing or orally (under the procedures set forth in § 3.217(b)), with knowledge or notice that such information would be used to calculate benefits amounts.

* * * * *

(4) Restoration of benefits. VA will restore retroactively benefits that were reduced, terminated, or otherwise