

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).

Dated: November 5, 2001.

**Neal A. McCaleb,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 01-28222 Filed 11-8-01; 8:45 am]

BILLING CODE 4310-02-P

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 100

#### **Subsistence Management Regulations for Public Lands in Alaska, Subpart D; Temporary Closure of Seasons and Changes in Harvest Limits for Moose in Unit 22 and Deer in Unit 8**

**AGENCIES:** Forest Service, USDA; Fish and Wildlife Service, Interior.

**ACTION:** Temporary closure of seasons and changes in harvest limits.

**SUMMARY:** This provides notice of the Federal Subsistence Board's temporary closure and changes in harvest limits to protect moose populations in Unit 22(B), (D), and (E), and to help the recovery of deer populations in Unit 8. These regulatory adjustments and the closures provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on June 25, 2001. Those regulations established seasons, harvest limits, methods, and means relating to the taking of wildlife for subsistence uses during the 2001–2002 regulatory year.

**DATES:** The original emergency actions were effective August 1, 2001 through

September 29, 2001. The extension of the emergency actions (temporary closure and changes to harvest limits) will be effective September 30, 2001 through March 31, 2002.

#### **FOR FURTHER INFORMATION CONTACT:**

Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Subsistence Program Manager, USDA—Forest Service, Alaska Region, telephone (907) 786–3592.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. In December 1989, the Alaska Supreme Court ruled that the rural preference in the State subsistence statute violated the Alaska Constitution and, therefore, negated State compliance with ANILCA.

The Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. The Departments administer title VIII through regulations at title 50, part 100 and title 36, part 242 of the Code of Federal Regulations (CFR). Consistent with Subparts A, B, and C of these regulations, as revised January 8, 1999, (64 FR 1276), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, National Park Service; the Alaska State Director, Bureau of Land Management; the Alaska Regional Director, Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for Subparts A, B, and C, which establish the program structure and determine

which Alaska residents are eligible to take specific species for subsistence uses, and the annual Subpart D regulations, which establish seasons, harvest limits, and methods and means for subsistence take of species in specific areas. Subpart D regulations for the 2001–2002 wildlife seasons, harvest limits, and methods and means were published on June 25, 2001, (66 FR 33744) Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical closures and adjustments would apply to 36 CFR part 242 and 50 CFR part 100.

The Alaska Department of Fish and Game (ADF&G), under the direction of the Alaska Board of Game (BOG), manages the general harvest and State subsistence harvest on all lands and waters throughout Alaska. However, on Federal lands and waters, the Federal Subsistence Board implements a subsistence priority for rural residents as provided by Title VIII of ANILCA. In providing this priority, the Board may, when necessary, preempt State harvest regulations for fish or wildlife on Federal lands and waters.

The temporary changes for early closure of seasons and changes in harvest limits is necessary to protect declining moose populations on the Seward Peninsula, and to help deer populations on Kodiak Island and adjacent islands to continue recovery following severe winter mortality that took place during the winter of 1998–99. This temporary change is authorized and in accordance with 50 CFR 100.19(e) and 36 CFR 242.19(e).

#### *Unit 22 Moose*

Moose populations in Unit 22 have declined in recent years from a overall population that ranged from 7,000 to 10,000 during the late 1980s to recent estimates of 5,000 to 7,000 animals. The declines are thought to be a result of winter mortality and lower calf survival.

The Federal subsistence moose harvest in Unit 22(D) for that portion within the Kuzitrin drainage was restricted to antlered bulls by the Federal Subsistence Board in 1998 due to the declining local moose population and heavy hunting pressure. As a result of a continuing regional trend in declining moose populations, the Federal Subsistence Board, in 2000, also restricted the harvest in Unit 22(B) to bulls only.

On July 13, 2001 the Alaska Department of Fish and Game using their emergency authority, shortened, but did not close, moose hunting seasons in four portions of Unit 22: Unit 22(B) west of the Darby Mountains, Unit

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 ratios 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 20–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 Darby Mountains 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 its 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 severe 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 the 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 contrary 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 Paperwork Reduction Act of 1995.

##### *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 trade 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.

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Dated: October 19, 2001.

**Kenneth E. Thompson,**

*Subsistence Program Leader, USDA-Forest Service.*

Dated: October 19, 2001.

**Thomas H. Boyd,**

*Acting Chair, Federal Subsistence Board.*

[FR Doc. 01–28102 Filed 11–8–01; 8:45 am]

**BILLING CODE** 3410–11–P; 4310–55–P

## 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

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

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 benefit amounts.

\* \* \* \* \*

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