20001. Comments should indicate that they are submitted in response to "RIN 2900–AH00." All written comments will be available for public inspection in the Office of Regulations Management, Room 1176, 801 Eye Street, NW, Washington, DC 20001, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Barry M. Tapp, Deputy Assistant General Counsel (023A), Office of General Counsel, Department of Veterans Affairs, (202) 273–6334. SUPPLEMENTARY INFORMATION: This document amends 38 C.F.R. § 2.1 to revoke delegations of authority to the Inspector General and subordinate

officials for issuing subpoenas, and to provide delegations to the Under Secretary for Health and certain subordinates to issue subpoenas, and to specify means of service for VA subpoenas.

Revoking Current Inspector General Authority To Subpoena

Title 38 U.S.C. § 5711 authorizes the Secretary of Veterans Affairs and those employees to whom the Secretary delegates such authority to issue subpoenas for, and compel the attendance of, witnesses within a radius of 100 miles from the place of hearing and to require the production of documents. (38 U.S.C. § 5713 authorizes Federal district courts to enforce VA subpoenas.)

The Secretary delegated subpoena authority to, among others, the Inspector General, Deputy Inspector General, Assistant Inspector General for Investigation, and Deputy Assistant Inspector General for Investigation. No subpoenas have been issued pursuant to this delegation and the delegations to the Inspector General and subordinates of that office are revoked by this document.

The Inspector General Act of 1978 (the Act) established the Office of Inspector General in the VA. The Act mandated the duties of the Office, specifically giving the Inspector General investigative powers. The Act limited the subpoena authority of Inspector Generals to requiring the production of documents. The Act also established the Inspector General as an official independent of the control of agency heads. In a leading case on the authority of Inspector Generals established under the Act, the United States Court of Appeals for the District of Columbia Circuit held that "[i]f the agency head may delegate his subpoena authority to the agency's inspector general, . . . the

congressional scheme is disrupted," making such delegations inconsistent with the Act's uniform distribution of power to its Inspector Generals. *United States* v. *Iannone*, 610 F.2d. 943, 947 (D.C. Cir. 1979). Accordingly, there is no authority for the delegation of subpoena power to the Inspector General and subordinates.

Delegating Authority to the Under Secretary for Health

Federal law authorizes the Secretary to operate income matching programs with other agencies to verify the income of VA beneficiaries so that VA may obtain information necessary to determine whether individuals are entitled to income-based benefits. 38 U.S.C. § 5317. The Secretary has delegated authority to the Under Secretary for Health to operate VA's income matching program. The Director, Income Verification Match Center, and the Associate Director for Operations have program responsibility for this program.

VA may not act on adverse information from income matching programs unless the data are independently verified. But sources for verifying information are not obligated to disclose the data merely at VA's request. Consequently, the Under Secretary for Health, the Director, Income Verification Match Center, and the Associate Director for Operations, Income Verification Match Center, are hereby delegated authority to issue subpoenas, compel the attendance of witnesses, and require the production of evidence.

Means of Service

This document also adds means of serving subpoenas issued by designated VA officials. In this regard, the regulations are amended to add the following:

Subpoenas issued pursuant to this section may be served by registered or certified mail, return receipt requested, addressed to the witness only. Personal service by any VA employee or other authorized person may be made where authorized in writing by the issuing official.

Administrative Procedure Act

This interim final rule constitutes rules of agency organization, procedure, or practice. Accordingly, pursuant to 5 U.S.C. 553, we are dispensing with prior notice and comment and with a 30-day delay of the effective date.

Regulatory Flexibility Act

The Secretary 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, 5 U.S.C. §§ 601–612. This amendment will affect only individuals and will not directly affect any small entities. 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

There are no programs listed in the Catalog of Federal Domestic Assistance which will be directly affected by this rule.

Executive Order 12866

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

List of Subjects in 38 CFR Part 2

Authority delegations (Government agencies), Veterans Affairs Department.

Approved: June 20, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 2 is amended as set forth below:

PART 2—DELEGATIONS OF AUTHORITY

1. The authority citation for part 2 continues to read as follows:

Authority: 72 Stat. 1114; 38 U.S.C. 501, unless otherwise noted.

2. Section 2.1 is revised to read as follows:

§2.1 Delegation of authority to employees to issue subpoenas, etc.

(a) Authority to issue subpoenas. Employees occupying or acting in the positions designated in paragraph (b) of this section shall have the power to issue subpoenas for (by countersigning VA Form 2–4003) and compel the attendance of witnesses within a radius of 100 miles from the place of hearing and to require the production of books, papers, documents, and other evidence. Issuing officials shall use discretion when exercising this power.

(b) *Designated positions.* The positions designated pursuant to paragraph (a) of this section are: General Counsel, Deputy General Counsel, Chairman, Board of Veterans' Appeals, Heads of Regional Offices and Centers having insurance or regional office activities, Under Secretary for Health (for income matching programs), Director, Income Verification Match