

severe weather (fall icing conditions, deep snow and a prolonged snow season). Changes in distribution also has affected the number of muskoxen in the Refuge. Between 2000 and 2002, mixed-sex groups with 3 radio-collared animals dispersed eastward into Canada and at least 1 group with a radio-collared animal moved west off the Refuge. Muskoxen may also have dispersed southward into the mountains.

On July 11, 2002 the Federal Subsistence Board, acting through the delegated official and at the request of the North Slope Muskox Working Group, delayed the opening of the muskox season in Unit 26(C), from July 15 to September 15. Delaying the start of the season until September 15 allowed biologists time to conduct additional surveys and to recommend a more permanent course of action to address the population decline of muskoxen in Unit 26(C). That recommendation, which the Board adopted effective September 15, 2002, reduced the muskox harvest quota to two bulls.

Unit 17(A) and (C), Nushagak Peninsula—Caribou

Caribou from the Northern Alaska Peninsula Herd were reintroduced to the Nushagak Peninsula in February 1988, after an absence for over 100 years. This herd grew rapidly during the first six years following reintroduction with an average annual growth rate of 38%. During the mid to late 1990's, the caribou population remained relatively stable at around 1,200–1,300 animals. Since 1999, the caribou population has undergone a decline. The current population estimate is approximately 700 caribou. Causes for the decline are not fully understood, but are likely related to a decline in habitat condition, increase in predation, and unreported human harvest. The herd is managed according to the guidelines of the Nushagak Peninsula Caribou Management Plan, prepared by the Nushagak Peninsula Caribou Management Planning Committee. The management plan sets a harvest level of not more than 10 percent when the population is between 600 and 1000 caribou. Management recommendations include continued population and range monitoring, and continued law enforcement efforts necessary to promote hunter compliance.

This emergency special action reduced the harvest limit from 2 caribou to 1 caribou for the first 60 days of the winter hunt. Subsequent Board action, following a scheduled January 10 local public meeting, extended the action

through the remainder of the season (March 31). Reducing the harvest limit will mean fewer caribou for subsistence users but will help the current estimated population of 700 from decreasing below the 600 animal threshold identified in the management plan as the population needed to allow continued hunting. It also allows additional hunters to participate in the hunt. The special action also provides the Refuge Manager the authority to close the harvest season if the harvest reaches the limit of 50 caribou as recommended by the Committee.

The emergency and temporary changes are necessary to protect declining moose, muskox, and caribou populations in the three areas described above. These changes are authorized and in accordance with 50 CFR 100.19(d–e) and 36 CFR 242.19(d–e).

The Board finds that additional public notice and comment requirements under the Administrative Procedure Act (APA) for this emergency action is 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

This emergency change does not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

Other Requirements

This emergency change has 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 gun, hunting gear, 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 adjustments will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on