

mislabeling concerns, it is common practice in the industry to pack containers of grapes slightly over the minimum net weight required to allow for shrink, and to mark these containers as 18 or 20 pounds, respectively. Last season, some containers were packed with slightly more than 21 pounds and marked as 21 pounds. Marking containers other than 18 or 20 pounds caused confusion in the marketplace and impacted handler assessments and statistical reporting. Thus, the Committee unanimously recommended at its February 12, 2002, meeting, that containers packed with slightly more than 18 or 20 pounds shall be marked as 18 or 20 pounds, as appropriate. To address this issue, § 925.304(b)(2) was revised to provide that containers other than master containers containing individual consumer packages to be marked with the minimum net weight of 18 or 20 pounds, as appropriate (67 FR 20607, April 26, 2002).

The Committee discussed alternatives to this change. The Committee believes that allowing markings other than 18 or 20-pound markings could cause confusion in the marketplace and may not address the mislabeling concerns as grapes lose moisture and shrink during shipment. Thus, the Committee unanimously recommended at its February 12, 2002, meeting, that the container marking requirements in § 925.304(b)(2) be revised as provided in the interim final rule (67 FR 20607, April 26, 2002).

Recently, retailers have requested master containers containing individual consumer packages that weigh a total of 24 pounds, 16 pounds, or 10 pounds. An individual consumer package is a package that is customarily produced and distributed for sale to individuals for their personal consumption.

The Committee discussed alternatives to this change, including making no change to the minimum net weight requirement for master containers containing individual consumer packages, but believes that providing this exception for master containers is in the best interest of handlers. The Committee estimated that approximately 2 percent of the crop is shipped in master containers containing individual consumer packages. The 2002 crop was estimated to be 9.5 million lugs. Allowing master containers containing individual consumer packages will enable handlers to market an additional 190,000 lugs of grapes. Therefore, the Committee unanimously recommended and USDA approved revising § 925.304(b)(2) to exempt master containers containing individual consumer packages from the

minimum net weight requirements of 18 or 20 pounds. (67 FR 20607, April 26, 2002).

Finally, the language in § 925.304(b)(2) was changed for clarity to specifically provide that containers containing grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers must meet a minimum net weight requirement of 18 pounds based on an average net weight of grapes in a representative sample of containers.

These revisions will enable handlers to compete more effectively in the marketplace and to better meet the needs of buyers. Imported grapes will not be affected by this action.

#### Removal of Obsolete Language

This rule continues in effect the minor changes to remove obsolete language in paragraphs (a) and (b)(iii) of § 925.304. These paragraphs included references to the period June 1, 1998, through August 15, 1998, which marked the trial usage of the "DGAC Consumer No. 1 Institutional" (DGAC) grade.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large grape handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the grape industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the February 12, 2002, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. A fax vote was conducted to clarify the recommendation regarding the number and dimensions of containers to be added to the list currently authorized under the grape order. All handlers were provided information on the number and dimensions of containers to be added to the order.

An interim final rule concerning this action was published in the **Federal Register** on April 26, 2002. Copies of the rule were mailed by the Committee's staff to all Committee members and grape handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 60-day

comment period which ended June 25, 2002. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (67 FR 20607, April 26, 2002) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements and orders, Reporting and recordkeeping requirements.

#### PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 925 which was published at 67 FR 20607 on April 26, 2002, is adopted as a final rule without change.

Dated: August 19, 2002.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 02-21536 Filed 8-22-02; 8:45 am]

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#### 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; Seasonal Adjustments—Redoubt Lake and Three Southeastern Alaska Lake Systems

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

**ACTION:** Seasonal adjustments.

**SUMMARY:** This provides notice of the Federal Subsistence Board's in-season management actions to protect sockeye salmon escapement in three Southeastern Alaska lake systems and to

remove unnecessary restrictions on salmon harvest by non-Federally qualified users at Redoubt Lake. The fishing schedules and closures will provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on February 7, 2002. Those regulations established seasons, harvest limits, methods, and means relating to the taking of fish and shellfish for subsistence uses during the 2002 regulatory year.

**DATES:** The Falls Lake, Salmon Lake, and Klag Bay Lake action is effective July 24, 2002, through August 31, 2002. The Redoubt Lake action is effective July 25, 2002, through September 21, 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 2002 fishing seasons, harvest limits, and methods and means were published on February 7, 2002, (67 FR 5890).

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 Fisheries (BOF), manages sport, commercial, personal use, 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.

These adjustments are necessary because of weak returns of the sockeye salmon run in the Afognak Lake, Falls Lake, Salmon Lake, and Klag Bay Lake systems based on in-season run assessments. The adjustment for Redoubt Lake is necessary because of strong returns of sockeye salmon to that lake system. These actions are authorized and in accordance with 50 CFR 100.19(d)-(e) and 36 CFR 242.19(d)-(e).

*Southeastern Alaska Lake Systems*

The Falls Lake system was closed because sockeye salmon returns were very low, and to avoid excessive harvest effort for this relatively small sockeye population. The current harvest to date has exceeded the previous 5-year average and the weir counts have been very low.

The Salmon Lake system was closed because sockeye salmon returns were

very low, and to avoid excessive harvest effort for this relatively small sockeye population. The total escapement to July 23, 2002, was 259 at Salmon Lake. In 2001 total escapement for Salmon Lake was 1039 sockeye salmon.

The Klag Bay Lake system was closed since sockeye salmon returns were very low, and to avoid excessive harvest effort for this relatively small sockeye population. The current harvest to date has exceeded the previous 5-year average and the weir counts have been very low.

This regulatory action was necessary to assure the continued viability of the sockeye salmon runs and provide a long-term subsistence priority during a period of limited harvest opportunity. These closures brought the Federal subsistence fishing regulations in line with the similar ADF&G action for unified management and minimized confusion under the dual management system.

*Redoubt Lake*

On July 25, 2002, the Federal Subsistence Board suspended the sockeye harvest closure for non-Federally qualified users on the Redoubt Lake system. The projected escapement for 2002 of 32,887 fish is well above the previous 10-year average escapement. As a result of the larger than expected return, the Board suspended the now unnecessary, closure restrictions on non-Federally qualified users. This action also allowed users to fish under a State subsistence fishing permit rather than having to obtain a Federal permit.

The Board finds that additional public notice and comment requirements under the Administrative Procedure Act (APA) for these emergency closures are impracticable, unnecessary, and contrary to the public interest. Lack of appropriate and immediate conservation measures could seriously affect the continued viability of fish 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)(3) 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) was 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 adjustment and emergency closures do not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

#### *Other Requirements*

The adjustments 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 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 competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

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 adjustments 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 adjustments 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 adjustments 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 adjustments 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. Cooperative salmon run assessment efforts with ADF&G will continue.

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*

William Knauer 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; Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Bob Gerhard, Alaska Regional Office, National Park Service; Glenn Chen, 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: July 25, 2002.

**Kenneth E. Thompson,**

*Subsistence Program Leader, USDA-Forest Service.*

Dated: July 25, 2002.

**Thomas H. Boyd,**

*Acting Chair, Federal Subsistence Board.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 52 and 81**

**[Region II Docket No. NJ52–243(a); FRL–7264–6]**

### **Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New Jersey**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** On January 15, 2002, the New Jersey State Department of Environmental Protection (NJDEP) submitted a request to EPA to redesignate the New Jersey portion of the New York-Northern New Jersey-Long Island Carbon Monoxide (CO) nonattainment area from nonattainment to attainment of the National Ambient Quality Standard (NAAQS) for CO. EPA is approving this request from the State of New Jersey because it meets the