

nomenclature of both standardized and nonstandardized foods that bear nutrient content claims relating to their fat content.

#### V. Environmental Impact

The agency has determined under 21 CFR 25.24(b)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

#### VI. Comments

Interested persons may, on or before January 23, 1996, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

#### VII. References

1. Memorandum entitled "Regulatory Reinvention Initiative" from President Clinton to heads of departments and agencies, March 4, 1995.

2. Jenness, Robert and Patton, Stuart, *Principles of Dairy Chemistry*, John Wiley and Sons, Inc., NY, pp. 403-404, 1959.

#### List of Subjects

##### 21 CFR Part 101

Food labeling, Reporting and recordkeeping requirements.

##### 21 CFR Part 131

Cream, Food grades and standards, Milk, Yogurt.

##### 21 CFR Part 133

Cheese, Food grades and standards, Food labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 101, 131, and 133 be amended as follows:

#### PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packing and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

2. Section 101.62 is amended by revising the introductory text of paragraph (b)(1) to read as follows:

##### § 101.62 Nutrient content claims for fat, fatty acid, and cholesterol content of foods.

(b) "Fat content claims." (1) The terms "fat free," "free of fat," "no fat," "zero fat," "without fat," "negligible source of fat," or "dietarily insignificant source of fat" or, in the case of milk products, "skim" may be used on the label or in labeling of foods, provided that:

\* \* \* \* \*

#### PART 131—MILK AND CREAM

3. The authority citation for 21 CFR part 131 continues to read as follows:

Authority: Secs. 201, 401, 403, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 371, 379e).

##### § 131.122 [Removed]

4. Section 131.122 *Sweetened condensed skimmed milk* is removed from subpart B.

##### § 131.123 [Removed]

5. Section 131.123 *Lowfat dry milk* is removed from subpart B.

##### § 131.132 [Removed]

6. Section 131.132 *Evaporated skimmed milk* is removed from subpart B.

##### § 131.135 [Removed]

7. Section 131.135 *Lowfat milk* is removed from subpart B.

##### § 131.136 [Removed]

8. Section 131.136 *Acidified lowfat milk* is removed from subpart B.

##### § 131.138 [Removed]

9. Section 131.138 *Cultured lowfat milk* is removed from subpart B.

##### § 131.143 [Removed]

10. Section 131.143 *Skim milk* is removed from subpart B.

##### § 131.144 [Removed]

11. Section 131.144 *Acidified skim milk* is removed from subpart B.

##### § 131.146 [Removed]

12. Section 131.146 *Cultured skim milk* is removed from subpart B.

13. Section 131.149 is amended by revising the second sentence of paragraph (a) to read as follows:

##### § 131.149 Dry cream.

(a) \* \* \* Alternatively, dry cream may be obtained by blending dry milks as defined in §§ 131.125(a) and 131.147(a) with dry cream as

appropriate, *Provided*, That the resulting product is equivalent in composition to that obtained by the method described in the first sentence of this paragraph. \* \* \*

##### § 131.185 [Removed]

14. Section 131.185 *Sour half-and-half* is removed from subpart B.

##### § 131.187 [Removed]

15. Section 131.187 *Acidified sour half-and-half* is removed from subpart B.

##### § 131.203 [Removed]

16. Section 131.203 *Lowfat yogurt* is removed from subpart B.

##### § 131.206 [Removed]

17. Section 131.206 *Nonfat yogurt* is removed from subpart B.

#### PART 133—CHEESES AND RELATED CHEESE PRODUCTS

18. The authority citation for 21 CFR part 133 continues to read as follows:

Authority: Secs. 201, 401, 403, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 371, 379e).

##### § 133.131 [Removed]

19. Section 133.131 *Lowfat cottage cheese* is removed from subpart B.

Dated: October 27, 1995.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 95-27712 Filed 11-8-95; 8:45 am]

BILLING CODE 4160-01-P

#### DEPARTMENT OF THE INTERIOR

##### Office of Surface Mining Reclamation and Enforcement

##### 30 CFR Part 902

[SPATS AK-004-FOR; Alaska Amendment IV]

##### Alaska Regulatory Program

**ACTION:** Proposed rule; reopening and extension of public comment period on proposed amendment.

**SUMMARY:** OSM is announcing receipt of revisions and additional explanatory information pertaining to a previously proposed amendment to the Alaska regulatory program (hereinafter, the "Alaska program" under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions and additional explanatory information for Alaska's proposed rules pertain to permit fees, geology description, return of excess spoil to underground

workings, self-bonding, disposal of coal mine waste, protection of fish and wildlife, blending of spoil into surrounding terrain, and road construction. Additionally, Alaska is withdrawing its proposal to revise Alaska rules pertaining to compliance information in permit applications, administrative processing of permit applications, Commissioner's findings, improvidently issued permits, permit revisions and renewals, permit conditions, impoundment design and construction, standards for revegetation success, inspections, cessation orders, exemption for coal extraction incidental to the extraction of other minerals, and definitions. The amendment is intended to revise the Alaska program to be consistent with the corresponding Federal regulations, clarify ambiguities, and improve operational efficiency.

**DATES:** Written comments must be received by 4:00 p.m., m.s.t., November 24, 1995.

**ADDRESSES:** Written comments should be mailed or hand delivered to James F. Fulton at the address listed below.

Copies of the Alaska program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, CO 80202-5733

Mr. Jules Tileston, Director, Department of Natural Resources, Division of Mining and Water Management, 3601 C Street, Suite 800, Anchorage, AK 99503-5925, Telephone: (907) 762-2149

**FOR FURTHER INFORMATION CONTACT:** James F. Fulton, Telephone: (303) 672-5524.

**SUPPLEMENTARY INFORMATION:**

**I. Background on the Alaska Program**

On March 23, 1983, the Secretary of the Interior conditionally approved the Alaska program as administered by the Alaska Department of Natural Resources. General background information on the Alaska program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Alaska program can be found in the March 23, 1983, Federal Register (48 FR 12274). Subsequent actions concerning Alaska's

program and program amendments can be found at 30 CFR 902.15 and 902.16.

**II. Proposed Amendment**

By letter dated January 26, 1995, and FAX transmittals dated February 13 and 14, 1994 (Administrative Record No. AK-E-01), Alaska submitted proposed Amendment IV to its permanent program pursuant to SMCRA (State Program Amendment Tracking System AK-004-FOR). Alaska's proposed amendment consisted of: (1) revisions in response to required program amendments codified at 30 CFR Part 902.16(a) (1), (2), (3), (6)-(14), and (16); (2) revisions in response to program deficiency letters from OSM dated November 1, 1989, February 7, 1990, and January 15, 1993; and (3) revisions proposed at Alaska's own initiative.

The provisions of the Alaska Administrative Code (AAC) that Alaska proposed to revise are: 11 AAC 05.010(a)(9) and 11 AAC 90.011, permit fees; 11 AAC 90.001, adoption of rules by reference; 11 AAC 90.002, responsibilities; 11 AAC 90.003, interim permits; 11 AAC 90.023, identification of interests and compliance information; 11 AAC 90.025, authority to enter and ownership information; 11 AAC 90.045(a), geology description; 11 AAC 90.049, surface water information; 11 AAC 90.083(b), reclamation plan requirements, roads; 11 AAC 90.097, transportation facilities; 11 AAC 90.099, placement of coal mine waste in underground workings; 11 AAC 90.117, processing of permit applications; 11 AAC 90.125, commissioner's findings; 11 AAC 90.126, improvidently issued permits; 11 AAC 90.127, permit conditions; 11 AAC 90.129, permit revisions and renewals; 11 AAC 90.149, alluvial valley floors; 11 AAC 90.163, exploration that substantially disturbs or is conducted in areas designated unsuitable for mining; 11 AAC 90.173, eligibility for small operator assistance; 11 AAC 90.207, self-bonding provisions; 11 AAC 90.321, hydrologic balance; 11 AAC 90.323, water quality standards; 11 AAC 90.325, diversions and conveyance of flow; 11 AAC 90.327, stream channel diversions; 11 AAC 90.336, impoundment design and construction; 11 AAC 90.337, impoundment inspection; 11 AAC 90.341, underground mine discharges; 11 AAC 90.345, surface and ground water monitoring; 11 AAC 90.375, public notice of blasting; 11 AAC 90.391, disposal of excess spoil or coal mine waste; 11 AAC 90.401, coal mine waste, refuse piles; 11 AAC 90.407, coal mine waste, dams and embankments; 11 AAC 90.409, coal mine waste, return to underground workings; 11 AAC 90.423,

protection of fish and wildlife; 11 AAC 90.443, backfilling and grading; 11 AAC 90.457, revegetation success standards; 11 AAC 90.491, construction and maintenance of roads and other transportation and support facilities; 11 AAC 90.601, inspections; 11 AAC 90.613, cessation orders; 11 AAC 90.901, applicability; 11 AAC 90.902, exemption for coal extraction incidental to the extraction of other minerals; 11 AAC 90.907, public participation; and 11 AAC 90.911, definitions.

OSM announced receipt of the proposed amendment in the February 27, 1995, Federal Register (60 FR 10520), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. AK-E-05). Because no one requested a public hearing or meeting, none was held. The public comment period ended on March 29, 1995.

During its review of the amendment, OSM identified concerns relating to the proposed provisions at 11 AAC 05.010(a)(9) and 11 AAC 90.011, fees; 11 AAC 90.023, identification of interests and compliance information; 11 AAC 90.117, processing of permit applications; 11 AAC 90.125, commissioner's findings; 11 AAC 90.126, improvidently issued permits; 11 AAC 90.129, permit revisions and renewals; 11 AAC 90.149, alluvial valley floors; 11 AAC 90.173, eligibility for small operator assistance; 11 AAC 90.207, self-bonding provisions; 11 AAC 90.327, stream channel diversions; 11 AAC 90.336, impoundment design and construction; 11 AAC 90.391, disposal of excess spoil or coal mine waste; 11 AAC 90.423, protection of fish and wildlife; 11 AAC 90.443, backfilling and grading; 11 AAC 90.457, revegetation success standards; 11 AAC 90.491, construction and maintenance of roads and other transportation and support facilities; 11 AAC 90.601, inspections; 11 AAC 90.901, applicability; 11 AAC 90.902, exemption for coal extraction incidental to the extraction of other minerals; 11 AAC 90.907, public participation; and 11 AAC 90.911, definitions.

OSM notified Alaska of the concerns by letter dated July 19, 1995 (Administrative Record No. AK-E-12). Alaska responded by letters dated October 11 and October 24, 1995, and a FAX transmittal dated October 23, 1995, by submitting a revised amendment and additional explanatory information (Administrative Record No. AK-E-14).

Alaska proposes revisions to and additional explanatory information for: 11 AAC 05.010(a)(9) and 11 AAC

90.011, fees; 11 AAC 90.045(a), geology description; 11 AAC 90.099, placement of coal mine waste in underground workings; 11 AAC 90.149, alluvial valley floors; 11 AAC 90.173, eligibility for small operator assistance; 11 AAC 90.207, self-bonding provisions; 11 AAC 90.327, stream channel diversions; 11 AAC 90.391, disposal of excess spoil or coal mine waste; 11 AAC 90.423, protection of fish and wildlife; 11 AAC 90.443, backfilling and grading; 11 AAC 90.491, construction and maintenance of roads and other transportation and support facilities; 11 AAC 90.901, applicability; and 11 AAC 90.907, public participation.

Alaska proposes these revisions:

- 11 AAC 05.010(a)(11) and 90.011, to move the regulatory requirements for permit fees to the fee provisions for the whole department, and the set a fee for incidental boundary revisions;
- 11 AAC 90.045, to require that the description of geology must include the deeper of the stratum immediately below the lowest coal seam to be mined, or any aquifer below the lowest seam which may be adversely affected by mining;
- 11 AAC 90.099, to require that underground mining plans describe the design, operation, and maintenance of any proposed facility to return coal mine waste and excess spoil to underground workings;
- proposed 11 AAC 90.207(f)(7), to require, when the financial conditions of a self-bond applicant or guarantor no longer meet the bond conditions, that a cessation order be issued and reclamation immediately commence;
- 11 AAC 90.391, to require that coal mine waste placed in excess spoil be nontoxic and nonacid forming;
- 11 AAC 90.409, to allow excess spoil to be returned to underground mine workings in certain circumstances;
- 11 AAC 90.423, to require that, on request, the fish and wildlife protection information required by 11 AAC 90.081 be provided to the U.S. Fish & Wildlife Service; and
- 11 AAC 90.491(a)(8), to require that the use of acid- and toxic-forming materials be prevented.

Additionally, Alaska proposes several additional minor editorial revisions.

Alaska is also withdrawing its proposed revisions to: 11 AAC 90.023, identification of interests and compliance information; 11 AAC 90.117, processing of permit applications; 11 AAC 90.125, commissioner's findings; 11 AAC 90.126, improvidently issued permits; 11 AAC 90.127, permit conditions; 11 AAC 90.129, permit revisions and

renewals; 11 AAC 90.336, impoundment design and construction; 11 AAC 90.457, revegetation success standards; 11 AAC 90.601, inspections; 11 AAC 90.613, cessation orders; 11 AAC 90.902, exemption for coal extraction incidental to the extraction of other minerals; and 11 AAC 90.911, definitions.

### III. Public Comment Procedures

OSM is reopening the comment period on the proposed Alaska program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Alaska program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Denver Field Division will not necessarily be considered in the final rulemaking or included in the administrative record.

### IV. Procedural Determinations

#### 1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

#### 2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of

30 CFR Parts 730, 731, and 732 have been met.

#### 3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

#### 4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

#### 5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

#### List of Subjects in 30 CFR Part 902

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 26, 1995.

Richard J. Seibel,

*Regional Director, Western Regional Coordinating Center.*

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### 30 CFR Part 934

[ND-032-FOR; Amendment XXII]

#### North Dakota Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; reopening and extension of public comment period on proposed amendment.