

In addition, Oklahoma submitted a letter, dated February 1, 1994, from the U.S. Soil Conservation Service (SCS) that was intended to provide concurrence with Appendix R concerning the repair of rills and gullies as a normal husbandry practice.

OSM published a notice in the March 8, 1994, **Federal Register** (59 FR 10770) announcing receipt of the amendment and inviting public comment on its adequacy (administrative record No. OK-959.06). The public hearing, scheduled for April 4, 1994, was not held because no one requested an opportunity to testify.

During its review of the amendment, OSM identified concerns with Oklahoma's proposed revisions to the Bond Release Guidelines. Specifically, OSM identified concerns relating to (1) sections I.E.3, I.F.3, II.A, and III.A, the need to establish a method to determine revegetation success standards for diversity, seasonality, permanence, and regeneration; (2) Appendix O, the method for calculating a technical productivity standard for success of revegetation on soils reclaimed for use as pastureland, grazingland, and grain and hay cropland on both prime and nonprime farmland; (3) subsection V.B.2.d, phase II bond release requirements for the use of test plots to demonstrate productivity on reclaimed prime farmland; and (4) Appendix R, the repair of rills and gullies as a normal husbandry practice. In addition, OSM identified certain editorial concerns relating to (1) subsection I.F.5.b, phase III bond release requirements for permanent drainage control facilities; (2) subsection V.B.2.e, the reference to Appendix O for the method to calculate a technical productivity standard on prime farmland for phase II bond release; and (3) Appendix J, the example calculation for a minimum adequate sample size. OSM notified Oklahoma of these concerns by letter dated May 20, 1994 (administrative record No. OK-959.10).

Oklahoma responded in a letter dated July 21, 1994, by submitting a revised amendment and additional explanatory information (administrative record No. OK-959.11).

Based upon the revisions to and additional explanatory information for the proposed program amendment submitted by Oklahoma, OSM reopened the public comment period in the August 9, 1994, **Federal Register** (59 FR 40505; administrative record No. OK-959.16). The public comment period closed on August 24, 1994.

By letter dated September 2, 1994 (administrative record No. OK-959.19), Oklahoma, and in response to an August

29, 1994, comment letter from SCS (administrative record No. OK-959.18), submitted a revised amendment.

Oklahoma proposed revisions to the Bond Release Guidelines in Appendices A, F, and O, concerning, respectively, the definition of "productivity," the method of sampling for production on pastureland and grazingland, and the methods for calculating a technical standard for productivity on lands reclaimed for use as pastureland and grazingland.

Based upon these revisions to the proposed amendment submitted by Oklahoma, OSM reopened the public comment period in the September 27, 1994, **Federal Register** (59 FR 49222; administrative record No. OK-959.22). The public comment period closed on August 12, 1994.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings for the proposed amendment submitted by Oklahoma on February 17, 1994, as revised by it on July 21 and September 2, 1994.

1. Nonsubstantive Revisions to the Bond Release Guidelines

Oklahoma proposed, as State initiatives, revisions to the following previously-approved provisions of the Bond Release Guidelines that are nonsubstantive in nature and consist of minor editorial changes (corresponding Federal provisions are listed in parentheses):

Appendix J, Calculation of Minimum Adequate Sample Size (30 CFR 816.116(a)(2) and 817.116(a)(2)), correction of typographical errors in example calculations, and

Appendix V, References Cited (30 CFR 816.116(a)(2) and 817.116(a)(2)), addition of a reference to Vogel, Willis G., 1987, A Manual for Training Reclamation Inspectors in the Fundamentals of Soils and Revegetation.

Because the proposed revisions to these previously-approved provisions are nonsubstantive in nature, the Director finds that these proposed revisions in Appendices J and V are no less effective than the Federal regulations. The Director approves these proposed revisions.

2. Substantive Revisions to Oklahoma's Bond Release Guidelines

a. *Subsection I.E.3.b, Phase II bond release requirements for ground cover on all land uses.* At 30 CFR 936.16(a), OSM required that Oklahoma revise subsection I.E.3.b to clarify that, in cases of approved commercial or industrial land uses, ground cover must be

sufficient to control erosion (finding No. 2, 58 FR 64374, 64376, December 7, 1993).

Oklahoma proposed to revise subsection I.E.3.b in the Bond Release Guidelines to add the requirement that, on areas with an approved industrial or commercial postmining land use, ground cover must be sufficient to control erosion.

The Federal regulations at 30 CFR 816.116(b)(4) and 817.116(b)(4) require that the vegetative ground cover shall not be less than that required to control erosion on areas to be developed for an industrial, commercial, or residential land use.

The Director finds that Oklahoma's revision of subsection I.E.3.b in the Bond Release Guidelines is no less effective than the Federal regulations at 30 CFR 816.116(b)(4) and 817.116(b)(4). The Director approves the proposed revision at subsection I.E.3.b and removes the required amendment at 30 CFR 936.16(a).

b. *Subsection I.F.3.d, Phase III bond release requirements for ground cover on areas previously disturbed by mining, and sections VII.A and VII.B, phase II and III bond release requirements for ground cover on areas developed for commercial, industrial, or residential use.* At 30 CFR 936.16(b), OSM required that Oklahoma revise subsection I.F.3.d to require, prior to phase III bond release on previously mined areas (areas that were not reclaimed to the requirements of the permanent regulatory program regulations and that were mined or otherwise disturbed by mining), that vegetative ground cover shall not be less than the ground cover existing before redisturbance (finding No. 3, 58 FR 64374, 64377, December 7, 1993).

Oklahoma proposed to revise subsection I.F.3.d. in the Bond Release Guidelines to require that the ground cover on reclaimed areas that had been previously disturbed by mining cannot be less than the ground cover existing prior to redisturbance. Oklahoma also proposed to revise subsection I.F.3.d. to require that, if the ground cover prior to redisturbance was less than 70 percent, the ground cover on the reclaimed area must be at least 70 percent vegetation and must be sufficient to control erosion. In effect, Oklahoma proposed that the ground cover, on reclaimed areas that had been previously disturbed by mining, cannot be less than 70 percent, must be equal to or greater than the pre-existing ground cover if it was more than 70 percent, and must be sufficient to control erosion.

The Federal regulations at 30 CFR 816.116(b)(5) and 817.116(b)(5) require