

greater statistical confidence level shall be used as approved by the regulatory authority in consultation with SCS.

The Director finds that Oklahoma's proposed requirements for the management of test plots at subsection V.B.2.d are substantively identical to and no less effective than the requirements of 30 CFR 816.116(a)(2) and 817.116(a)(2). Because Oklahoma proposed criteria for establishment of test plots within the reclaimed area that should ensure that the test plots will be representative at a 90-percent statistical confidence level of the total reclaimed prime farmland bond release area, the Director finds that subsections V.B.2.e (1) through (4) are no less effective than the requirements of 30 CFR 823.15(b)(2). The Director approves the proposed revisions at subsections V.B.2.d and V.B.2.e (1) through (4).

However, because Oklahoma did not submit evidence of consultation with SCS as required by the Federal regulations at 30 CFR 823.15(b)(2) for development of statistically valid sampling techniques used on reclaimed prime farmlands, the Director is revising the required amendment at 30 CFR 936.16(g) to require that Oklahoma must submit, before Oklahoma allows the use of test plots as proposed at subsections V.B.2.d and V.B.2.e in the Bond Release Guidelines, evidence of consultation with SCS regarding the use of test plots as a statistically valid sampling technique for demonstrating success of productivity on prime farmlands.

g. *Subsections V.B.2.f and VI.B.2.e, Phase II bond release requirements for productivity on prime farmland cropland.* At 30 CFR 936.16(e), OSM required that Oklahoma revise subsections V.B.2.e and VI.B.2.e to reference Appendix O for the methods to calculate the technical productivity standards for hay crops on prime and nonprime farmland cropland, and to cite the reference for the methods for calculating technical productivity standards that are in Appendix O (finding No. 6.a, 58 FR 64374, 64378, December 7, 1993).

Oklahoma proposed to revise section V.B.2 by adding a new paragraph (e) and redesignating existing paragraph (e) as (f) (see finding No. 2.f for a discussion of new subsection V.B.2.e). Oklahoma proposed to revise subsection V.B.2.f, requirements for phase II bond release on prime farmland cropland, by stating that the method to calculate the technical productivity standard for grain or hay crops on prime farmland cropland is in Appendix O. Oklahoma proposed to revise subsection VI.B.2.e, requirements for phase III bond release on nonprime farmland cropland, by

stating that the method to calculate the technical productivity standard for grain or hay crops on nonprime farmland cropland is in Appendix O (see finding No. 2.h for discussion of an additional proposed revision at subsection VI.B.2.e). In addition, Oklahoma stated in its transmittal letter for the proposed amendment that the reference for the methods for calculating technical productivity standards in Appendix O is the "Technical Guides on Use of Reference Areas and Technical Standards for Evaluating Surface Mine Vegetation in OSM Regions I and II," which is listed in the Bond Release Guidelines in Appendix V.

The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) require that standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in an approved regulatory program.

By clearly referencing Appendix O, Oklahoma requires that a calculated technical productivity standard be calculated by the methods described in Appendix O, and has therefore proposed, in its regulatory program, an alternative standard (to the standard determined by a reference area) for measuring success of revegetation on prime and nonprime farmlands.

The Director finds that subsections V.B.2.f and VI.B.2.e in the Bond Release Guidelines are no less effective than the Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1). The Director approves the proposed revisions of subsections V.B.2.f and VI.B.2.e and removes the required amendment at 30 CFR 936.16(e).

h. *Subsection VI.B.2.e, Phase II bond release requirements for productivity on nonprime farmland cropland.* Because subsection VI.B.2.e pertains to productivity on nonprime farmland cropland, OSM required, at 30 CFR 936.16(h), that Oklahoma revise subsection VI.B.2.e to change "prime farmland cropland" to "nonprime farmland cropland" when referencing Appendix P for the methods to measure row crop production (finding No. 6.d, 58 FR 64374, 64379, December 7, 1993).

Oklahoma proposed to revise subsection VI.B.2.e in the Bond Release Guidelines to state that the methods for measuring row crop production on nonprime farmland cropland are described in Appendix P.

The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) require that standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in an approved regulatory program.

By clarifying that the sampling methods for measuring row crop production on nonprime farmland cropland are in Appendix P, Oklahoma has proposed, in its regulatory program, sampling methods for measuring success of revegetation for nonprime farmland cropland.

The Director finds that subsection VI.B.2.e in the Bond Release Guidelines is no less effective than the Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1). The Director approves the revision of subsection VI.B.2.e and removes the required amendment at 30 CFR 936.16(h).

i. *Appendix A, Definition of "productivity".* Oklahoma previously defined, in Appendix A, the term "productivity" to mean

[T]he amount of *harvestable* standing biomass of desirable species. Standing biomass is the aboveground living portion and the attached litter portion of plants produced within a given growing season. Horizontal runners of stoloniferous plants are also included.

(Emphasis added). Oklahoma proposed, at its own initiative and in response to an SCS comment, a revised definition of "productivity" to refer to "[t]he amount of *total* standing biomass of desirable species" (emphasis added).

There is no counterpart definition for "productivity" in the Federal regulations; however, the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that standards for success shall include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. Although not explicitly stated, the production parameter must be representative of the total productivity the reclaimed soils were capable of before mining. Oklahoma, by substituting "total standing biomass" for "harvestable standing biomass," has proposed that the term "productivity" refers to the total productivity the reclaimed soils were capable of before mining.

The Director finds that Oklahoma's proposed definition of "productivity" in Appendix A in the Bond Release Guidelines is no less effective than the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) and approves it.

j. *Appendices A and R, Definition of "initial establishment of permanent vegetative cover" and the "repair of rills and gullies" as a normal husbandry practice.* At 30 CFR 936.16(i), OSM required that Oklahoma revise Appendix R to either remove any reference to the proposed treatment of