

rills and gullies as a normal husbandry practice, or specify what constitutes "initial vegetation establishment" and submit either the actual SCS guideline described in Appendix R or a letter from SCS to Oklahoma stating that the practices described in Appendix R are considered normal husbandry practices for the repair of rills and gullies in the State of Oklahoma (finding No. 7, 58 FR 64374, 64379, December 7, 1993).

Appendix R in Oklahoma's Bond Release Guidelines includes the "Guidelines for the Repair of Rills and Gullies." These guidelines require that the repair of rills and gullies restart the revegetation liability period unless the occurrences and treatment of such rills and gullies constitute a normal conservation practice in the region. Oklahoma sets forth in Appendix R these normal conservation practices, which are the treatment practices that are considered the degree of management customarily performed to prevent exploitation, destruction, or neglect of the soil resource and maintain the productivity of the land use. In Appendix R, Oklahoma requires that the treatment of rills and gullies requiring permanent reseeding of more than 10 acres in a contiguous block or 10 percent of a permit area initially seeded during a single year shall be considered an augmentative practice.

Oklahoma proposed to revise Appendix R to require that any treatment of rills and gullies after "initial establishment of permanent vegetative cover" shall also be considered an augmentative practice that would restart the liability period. In addition, Oklahoma proposed to revise Appendix A in the Bond Release Guidelines to define "initial establishment of permanent vegetative cover" to mean

[T]he time period between the bond liability start date and final approval of the Phase II bond release on the permit or increment of the permit.

At section I.A.1 in the Bond Release Guidelines, Oklahoma requires that the liability period for revegetation success on reclaimed lands begins with the *successful completion of initial planting* of all required permanent vegetation species on a site. Therefore, Oklahoma proposed to allow the repair of rills and gullies without restarting the liability period during the time period between *successful completion of initial planting* and *initial establishment of permanent vegetative cover*. After phase II bond release, any repair of rills and gullies in the bond release area would be considered an augmentative practice that would restart the liability period.

The Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) provide that the regulatory authority may approve selective husbandry practices as normal husbandry practices (excluding augmented seeding, fertilization, or irrigation), provided it obtains prior approval of these practices from the Director of OSM in accordance with 30 CFR 732.17. These practices can be implemented as normal husbandry practices without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved husbandry practices must be normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, and include such practices as disease, pest, and vermin control, and any pruning, reseeding, and transplanting specifically necessitated by such actions.

Because Oklahoma has defined the term "initial establishment of permanent vegetative cover," it is possible to determine when an operator must consider the repair of rills and gullies an augmentative practice that would restart the liability period.

Oklahoma also submitted, as part of the Bond Release Guidelines a letter, dated February 1, 1994, from the Oklahoma State Office of SCS. In this letter, SCS stated that

[W]e have reviewed the Oklahoma Department of Mines proposed guidelines for the repair of rills and gullies on reclaimed mine land in Oklahoma. We believe these guidelines are complete and adequate for reclamation if they are followed by the operator.

In addition, in a March 14, 1994, letter to OSM (administrative record No. OK-959-.07), SCS commented that

Appendix R represents normal practices that would be used for gully control in the State of Oklahoma.

Therefore, because Oklahoma has adequately demonstrated that the practices for the repair of rills and gullies in Appendix R are supported by SCS as an acceptable land management technique for similar situations in the State of Oklahoma, the Director finds that Oklahoma's proposal in Appendix R for the repair of rills and gullies as a normal husbandry practice is no less effective than the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4). The Director approves the proposed definition of "initial establishment of

permanent vegetative cover" in Appendix A and, as specified in Appendix R, the repair of rills and gullies as a normal husbandry practice, and removes the required amendment at 30 CFR 936.16(i).

k. *Appendices F and O, Methods of production sampling and methods for calculation of technical productivity standards on pastureland and grazingland.* Oklahoma presented, in Appendix O, an example of the method for calculating a technical productivity standard using soil yield figures expressed in animal unit months (AUM's) that are published in SCS county soil surveys. This example calculation was applicable to lands reclaimed for use as pastureland and grazingland.

In response to OSM's May 20, 1994, issue letter, Oklahoma proposed to revise Appendix O to require the use of SCS county survey soil supplements, if available, and if not available, to use SCS county soil surveys; and to include a separate example calculation for a technical productivity standard on grazingland based on a direct comparison for total productivity with SCS soil productivity figures expressed in pounds per acre (rather than AUM's).

In response to SCS comments, Oklahoma, at its own initiative, proposed to further revise the Bond Release Guidelines. Oklahoma revised Appendix F, concerning the method of production sampling, to (1) recommend that pastureland or grazingland with a predominance of warm season species be clipped during September or October and pastureland or grazingland with a predominance of cool species be clipped during May or June, and (2) requires that all production samples be clipped to ground level. Oklahoma also proposed to further revise Appendix O, concerning the methods of calculating technical productivity standards on pastureland and grazingland, to (1) require that the SCS soil productivity figure expressed in AUM's be multiplied by 1560 in the calculation for a technical productivity standard on pastureland, and (2) clarify that clipping is a direct comparison using the calculation for a technical productivity standard on grazingland based on soil productivity figures expressed in pounds per acre.

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. The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) also