Instructions

Complete this form, please follow these instructions.

In *item # 1.* Check the block and give the date if this is for an existing agreement or reopener. The FLRA Certification number should be provided if available. If not known, please leave this item blank. Absence of this number will not impede processing of the Form.

In *item #2.* If other *assistance* in bargaining is requested please specify: e.g.; impact and implementation bargaining (I&I) and/or mid-term bargaining and provide a brief listing of issues, e.g. Smoking, Alternative Work Schedules (AWS), ground rules, office moves, or if desired, add attached list. This is only if such issues are known at time of filing.

In *item #3.* Please specify the issues to be considered for grievance mediation. Please refer to FMCS guidelines for processing these requests. Please make certain that both parties sign this request!

In *item #4.* List the name of the agency, as follows: The Department, and the subdivision or component. For example: U.S. Dept. of Labor, BLS, or U.S. Dept. of Army, Aberdeen Proving Ground, or Illinois National Guard, Springfield Chapter. If an independent agency is involved, list the agency, e.g. Federal Deposit Insurance Corp. (FDIC) and any subdivision or component, if appropriate.

In *item #5.* List the name of the union and its subdivision or component as follows: e.g. Federal Employees Union, Local 23 or Government Workers Union, Western Joint Council.

In *item #6.* Provide the area where the negotiation or mediation will most likely take place, with zip code, e.g., Washington, D.C. 20427. The zip code is important because our cases are routed by computer through zip code, and mediators are assigned on that basis.

In *item #7.* Only the *approximate* number of employees in the bargaining unit and establishment are requested. The establishment is the entity referred to in item 4 as name of subdivision or component, if any.

In *item #8.* The filing need only be sent by one party unless it is a request for grievance mediation. (See item 9.)

In *item #9.* Please give the title of the official, phone number, address, and zip code.

In *item #10.* Both labor and management signatures are required for grievance mediation requests.

Notice

Send original to F.M.C.S.

Send one copy to opposite party.

Retain one copy for party filing notice.

[FR Doc. 95–472 Filed 1–9–95; 8:45 am]

BILLING CODE 6732–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Oklahoma Regulatory Program

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

ACTION: Final rule, approval of amendment.

SUMMARY: OSM is approving, with additional requirements, a proposed amendment to the Oklahoma regulatory program (hereinafter referred to as the ''Oklahoma program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Oklahoma proposed to amend its program by revising its Bond Release Guidelines that include revegetation success standards and statistically valid sampling techniques, and guidelines for phase I, II, and III bond release. Oklahoma proposed revisions pertaining to ground cover; requirements for permanent impoundments, ponds, diversions, and treatment facilities; calculations for a technical success standard for productivity; criteria regarding the selection of test plots for demonstrating success of productivity on prime farmland cropland; the definition of ''initial establishment of permanent vegetative cover;'' the repair of rills and gullies as a normal husbandry practice; a technical document reference; and the correction of certain typographical errors. The amendment is intended to revise the Oklahoma program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: January 10, 1995.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program

On January 19, 1981, the Secretary of the Interior conditionally approved the Oklahoma program. General background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program can be found in the January 19, 1981, **Federal Register** (46 FR 4902). Subsequent actions concerning Oklahoma's program and program amendments can be found at 30 CFR 936.15, 936.16, and 936.30.

II. Submission of Amendment

On February 17, 1994, Oklahoma submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. OK–959.01). Oklahoma submitted the proposed amendment with the intent of revising the State program to be consistent with the corresponding Federal standards. Oklahoma submitted the proposed amendment, in part, in response to required program amendments at 30 CFR 936.16 (a) through (i) and, in part, at its own initiative.

Oklahoma proposed to amend the Bond Release Guidelines that are referenced in Oklahoma Administrative Code (OAC) 460:20–43–46(a)(1) and 460:20–45–46(a)(1). Specifically, Oklahoma proposed to revise the Bond Release Guidelines at subsection I.E.3.b to require ground cover sufficient to control erosion for approved commercial or industrial land uses; subsection I.F.3.d to require, on areas previously disturbed by mining, that ground cover be at least 70 percent and sufficient to control erosion; subsection I.F.5.b to require that water discharged from permanent impoundments, ponds, diversions, and treatment facilities shall meet water quality effluent limitations; subsections II.B.2.d and III.B.2.d to reference Appendix O for the method for calculating a technical success standard for productivity on, respectively, pastureland and grazing land; subsection V.B.2.c to reference Appendix P for the method for calculating a technical success standard for productivity of row crops on prime farmland cropland; subsection V.B.2.d to add criteria regarding the selection of test plots for demonstrating success of productivity on prime farmland cropland; subsection V.B.2.e to reference Appendix O for the method for calculating a technical success standard for productivity of grain or hay crops on prime farmland cropland; subsection VI.B.2.e to reference Appendices P and Q for the methods for calculating technical success standards for productivity of, respectively, row crops and grain or hay crops on nonprime farmland cropland; Appendix A to add the definition of ''initial establishment of permanent vegetative cover;'' Appendices J and P to correct typographical errors; and Appendix V, to add a technical document reference.

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 remined or otherwise disturbed by mining), that vegetative ground cover shall not be less than the ground cover existing before redistrubance (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

on previously mined areas that the reclaimed vegetative ground cover must (1) not be less than the ground cover existing before redisturbance and (2) be adequate to control erosion.

With the exception of a minimum requirement that ground cover must be at least 70 percent, Oklahoma's proposed revisions are substantively identical to the Federal regulations at 30 CFR 816.116(b)(5) and 817.116(b)(5). Oklahoma's proposed requirement that the ground cover on the reclaimed area must be at least 70 percent vegetation has no counterpart in the Federal regulations. However, this proposed requirement is not inconsistent with the Federal regulations and, in those cases where the ground cover of the previously disturbed area was less than 70 percent and was sufficient to control erosion, provides for a greater degree of revegetation of previously mined areas than do the Federal regulations.

Therefore, the Director finds that Oklahoma's proposed revisions of subsection I.F.3.d in the Bond Release Guidelines are no less effective than the Federal regulations at 30 CFR 816.116(b)(5) and 817.116(b)(5). The Director approves the proposed revisions and removes the required amendment at 30 CFR 936.16(b).

Oklahoma also required at sections VII.A and B, for phase II and III bond release on areas developed for commercial, industrial, or residential land use, that the ground cover must be sufficient to control erosion. Oklahoma indicated parenthetically that the ground cover standard would be 70 percent. Oklahoma, at OAC 460:20–43–43(a)(4) and 460:20–45–43(a)(4), and OAC 460:20–43–46(b)(5) and 460:20–45–46(b)(5) require respectively that (1) ground cover for all land uses be capable of stabilizing the soil surface from erosion and (2) ground cover be not less than that required to control erosion for areas with an approved industrial, commercial, or residential land use. Therefore, OSM interprets Oklahoma's parenthetical indication that there must be 70 percent ground cover on land developed for commercial, industrial, or residential use to be a minimum standard that must be increased if it is insufficient to control erosion.

c. *Subsection I.F.5.b, Phase III bond release requirements for permanent drainage control facilities.* At 30 CFR 936.16(d), OSM required that Oklahoma revise subsection I.F.5.b to require that water discharged from permanent impoundments, ponds, diversions, and treatment facilities meet applicable water quality effluent limitations in addition to not degrading the quality of receiving water below applicable water quality standards (finding No. 5, 58 FR 64374, 64378, December 7, 1993).

Oklahoma proposed to revise subsection I.F.5.b in the Bond Release Guidelines to require that water discharged from permanent impoundments, ponds, diversions, and treatment facilities shall meet applicable water quality effluent limitations and not degrade the quality of receiving waters to less than the water quality standards pursuant to applicable State and Federal laws.

The Federal regulations at 30 CFR 816.49(b)(2) and 817.49(b)(2) require for permanent impoundments that the quality of impounded water will meet applicable State and Federal water quality standards, and discharges will meet applicable effluent limitations and will not degrade the quality of receiving water below applicable State and Federal water quality standards.

The Director finds that Oklahoma's proposed revisions of subsection I.F.5.b in the Bond Release Guidelines are substantively identical to and no less effective than the Federal regulations at 30 CFR 816.49(b)(2) and 817.49(b)(2). Therefore, the Director approves the proposed revisions and removes the required amendment at 30 CFR 936.16(d).

d. *Subsections II.B.2.d, III.B.2.d, and V.B.2.c, Phase III bond release requirements for productivity on pastureland, phase III bond release requirements for productivity on grazingland, and phase II bond release requirements for productivity on prime farmland cropland.* At 30 CFR 936.16(f), OSM required that Oklahoma revise subsections II.B.2.d, III.B.2.d, and V.B.2.c to state that productivity standards proposed by an applicant that are not calculated using the method described in Appendix O must be approved by both Oklahoma and OSM (finding No. 6.b, 58 FR 64374, 64378, December 7, 1993).

Oklahoma proposed to revise subsections II.B.2.d and III.B.2.d in the Bond Release Guidelines to require that, when a reference area is not used, a technical success standard for productivity on pastureland and grazingland be calculated by using the method described in Appendix O. Oklahoma also proposed to revise subsection V.B.2.c in the Bond Release Guidelines to require that, when a reference area is not used, a technical success standard for productivity on prime farmland cropland be calculated by using the method described in Appendix O.

The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) require that standards for revegetation success shall be selected by the regulatory authority and included in an approved regulatory program. OSM previously approved the methods for calculating technical success standards for productivity in Appendix O in the Bond Release Guidelines.

By referencing Appendix O in subsections II.B.2.d, III.B.2.d, and V.B.2.c, Oklahoma has, in effect, limited technical success standards for productivity on pastureland, grazingland, and prime farmland cropland to only those standards calculated using the methods described in Appendix O.

Because Oklahoma no longer allows unspecified methods that OSM would not have an opportunity to approve, and because OSM previously approved Appendix O, the Director finds that the proposed revisions of subsections II.B.2.d, III.B.2.d, and V.B.2.c 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 and removes the required amendment at 30 CFR 936.36(f).

e. *Subsections IV.A.1.a and b and Sections VII.A and B, Phase III bond release requirements for diversity, seasonality, permanence, and regeneration.* At 30 CFR 936.16(c), OSM required that Oklahoma revise the Bond Release Guidelines to identify the revegetation success standards and sampling methods for diversity, seasonality, permanence, and regeneration that will be applied for all land uses prior to phase III bond release (finding No. 1.a, 58 FR 64374, 64375, December 7, 1993).

Oklahoma proposed to revise subsections IV.A.1.a and b, and sections VII.A and B in the Bond Release Guidelines, to require, prior to phase II and III bond release on reclaimed areas with a designated land use of forestry, wildlife habitat, recreation, industrial, commercial, or residential, that the bond release areas must meet permit-specific standards for diversity, seasonality, permanence, and regeneration.

For phase II bond release on pastureland and grazingland, subsections II.A.1.g and III.A.1.g in the Bond Release Guidelines require that perennial species not listed in the approved reclamation plan (but approved by Oklahoma as desirable and compatible with the postmining land use) cannot exceed 20 percent of total ground cover with no more than 5 percent ground cover by any one of these species. Subsections II.A.1.f and III.A.1.f in the Bond Release Guidelines

require, for phase II bond release on pastureland and grazingland, that no more than 10 percent litter and 10 percent desirable annual or biennial forbs can be counted as acceptable ground cover in any single sampling unit. For phase III bond release on pastureland and grazingland, subsections II.B.1.a and III.B.1.a in the Bond Release Guidelines refer the reader to the phase II standards.

As discussed above, Oklahoma does require, for phase II and III bond release on pastureland and grazingland, standards which reflect permanence, seasonality, and regeneration on pastureland and grazingland. However, Oklahoma has not revised the Bond Release Guidelines to address how it would evaluate the reclaimed area for diversity of permanent species prior to phase III bond release on pastureland and grazingland.

The Federal regulations at 30 CFR 816.116(a) and 817.116(a) require that the success of revegetation shall be judged on, among other things, the requirements of 30 CFR 816.111 and 817.111. The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) require that all success standards and sampling techniques must be included in an approved regulatory program. Therefore, success standards and sampling techniques must incorporate the various requirements at 30 CFR 816.111 and 817.111 and be approved by OSM. The Federal regulations at 30 CFR 816.111 and 817.111 require, among other things, that a permittee establish where appropriate a vegetative cover that is diverse, effective, and permanent (referred to as diversity and permanence). The Federal regulations at 30 CFR 816.111 and 817.111 also require a permittee to reestablish plant species that have the same seasonal characteristics of growth as the original vegetation and are capable of self-regeneration and plan succession (referred to as seasonality and regeneration).

Standards reflecting diversity, seasonality, permanence, and regeneration on areas with designated land uses of forestry, fish and wildlife habitat, commercial, industrial, and recreation are appropriately addressed on a permit-specific basis, as proposed by Oklahoma, because the standards will vary with the actual needs specific to the area being reclaimed. For example, there may be no need for a diversity standard for an area to reclaimed to an industrial, commercial, or residential land use where reclamation will probably employ a single-species ground cover established for erosion control, but there may be a need for a significant diversity/seasonality standard for an area to be reclaimed to as a wildlife habitat targeted for specific wildlife species.

Therefore, with respect to areas designated for use as forestry, wildlife habitat, recreation, industrial, commercial, or residential, the Director finds that the proposed revisions at subsections IV.A.1.a and b, and sections VII.A and B in the Bond Release Guidelines are no less effective than the Federal regulations at 30 CFR 816.116(a), 817.116(a), 816.111, and 817.111, and approves them.

With respect to areas designated for use as pastureland and grazingland, the Director finds that the Bond Release Guidelines are less effective than the Federal regulations at 30 CFR 816.116(a), 817.116(a), 816.111, and 817.111 because Oklahoma has not addressed how it will evaluate the reclaimed area for diversity of permanent species prior to phase III bond release. Therefore, the Director is revising the required amendment at 30 CFR 936.16(c) to require that Oklahoma revise sections II.B and III.B in the Bond Release Guidelines to address how it will evaluate diversity prior to phase III bond release on areas designated for use as pastureland and grazingland.

f. *Subsections V.B.2.d and V.B.2.e, Phase II bond release requirements for the use of test plots to demonstrate productivity on reclaimed prime farmland cropland.* At 30 CFR 936.16(g), OSM required that Oklahoma revise subsection V.B.2.d to either remove the allowance for the use of test plots as a means of demonstrating productivity success on prime farmlands, or submit a method for demonstrating that the test plots would be representative at a 90-percent statistical confidence level of the total reclaimed prime farmland bond release area. OSM also required Oklahoma to consult with SCS for the proposed method and to document this consultation (finding No. 6.c, 58 FR 64374, 64379, December 7, 1993).

Oklahoma, at OAC 460:20–43–46(c)(2) and 460:20–45–46(c)(2), requires that the measurement period for determining revegetation success of cropland exceed the approved standards any 2 years of the responsibility period, except the first year. Oklahoma's Bond Release Guidelines at subsection V.B.2.a and OAC 460:20–49–8(b)(3) require, for phase II bond release on reclaimed prime farmland, that the measurement period for determining the average annual crop production be a minimum of 3 crop years. OSM interprets Oklahoma's rules and Bond Release Guidelines to require, for phase II bond release on reclaimed prime farmland, that a permittee demonstrate success of productivity with 3 years of crop production during the responsibility period, except the first year.

Subsection V.B.2.d provides for the use of test plots, as an alternative to use of the total reclaimed area, for measuring the success of productivity on prime farmlands. Oklahoma proposed to revise subsection V.B.2.d to require that selected test plots must be representative of geology, soil, and slope of the reclaimed prime farmland area, and, if the test plots are not properly managed during the liability period, they will lose eligibility as a comparison method.

Oklahoma also proposed to revise section V.B.2 by adding a new subsection V.B.2.e that sets forth criteria that must be used to establish test plots in the reclaimed bond release area. At subsections V.B.2.e (1) through (4), Oklahoma proposed to require the following criteria:

(1) A contiguous prime farmland or cropland area represents a single population, test plots are selected at random throughout the contiguous reclaimed area. Appendix C [Methods of Randomized Selection of Sampling Locations] provides methods of selecting randomized sampling locations.

(2) Each test plot represents one sample. Appendix Q [Minimum Sample Size for Row Crops in Prime Farmland (or Nonprime Farmland) Production Determination] provides the minimum sample size formulas for measuring row crops for production standards on prime farmland.

(3) The size of the test plot should be based on the sampling technique (i.e., hand sampling, machine harvest, etc.) that will be used to evaluate crop production. In addition, the plots should be large enough so that impact of any edge effect would be avoided.

(4) The methods for measuring row crop production on prime farmlands is shown in Appendix P [Methods for Measuring Row Crops in Prime Farmland (and Nonprime Farmland) Production].

Oklahoma did not submit evidence of consultation with SCS regarding the use of test plots for measuring productivity on prime farmland.

The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that reclaimed areas be managed in the same manner as unmined lands with the same land use in the region of the reclaimed area. The Federal regulations at 30 CFR 823.15(b)(2) require that soil productivity shall be measured on a representative sample or on all of the mined and reclaimed prime farmland area using the reference crop determined under 30 CFR 823.15(b)(6), and also require that a statistically valid sampling technique at a 90-percent or

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

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

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.

Oklahoma's proposed revisions of Appendices F and O will ensure that, on land reclaimed for use as pastureland or grazingland, the demonstration of success of restored productivity, based on technical standards derived from SCS soil surveys, accurately represents the productive potential of similar soils in the region.

The Director finds that Oklahoma's proposed revisions of Appendices F and O are no less effective than the Federal regulations at 30 CFR 817.116(a) (1) and (2) and 817.116(a) (1) and (2). The Director approves them.

IV. Summary and Disposition of Comments

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Oklahoma program (administrative record No. OK–960).

a. *SCS.* On March 14, 1994, SCS responded with the following comments (administrative record No. OK–959.07). SCS (1) recommended that Oklahoma use the terms ''native grazingland'' and ''introduced grazingland'' in place of the terms ''grazingland'' and ''pastureland;'' (2) recommended revision of the method described in Appendix O to calculate a technical standard, for total production on grazingland and pastureland; and (3) stated that the methods described for treatment of rills and gullies in Appendix R represent normal practices used for gully control in the State of Oklahoma.

With respect to the recommendation that Oklahoma use the terms ''introduced grazingland'' and ''native grazingland'' in place of the terms ''pastureland'' and ''grazingland,'' the Federal regulations at 30 CFR define (1) ''pastureland'' to mean land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by livestock or occasionally cut and cured for livestock feed, and (2) ''grazingland'' to mean land used for grasslands and forest lands where the indigenous vegetation is actively managed for grazing, browsing, or occasional hay production. In addition, Oklahoma's rules at section 701.5 include definitions of ''pastureland'' and ''grazingland'' that are identical to the Federal regulations. Oklahoma, in Appendix O of the Bond Release Guidelines, refers to ''pastureland'' and ''grazingland'' as, respectively, improved pasture grasses and native range grasses. Therefore, because Oklahoma's use of the terms ''pastureland'' and ''grazingland'' in the Bond Release Guidelines is consistent with and no less effective than the use of these terms in Oklahoma rules and the Federal regulations, the Director is not requiring that Oklahoma revise the amendment in response to this comment.

With respect to the recommendation that Oklahoma revise the method described in Appendix O to calculate a technical standard for total production on grazingland and pastureland, OSM required in its May 20, 1994, issue letter that Oklahoma revise the method described in Appendix O to accurately represent the total productive potential of soils based on SCS soil county survey productivity figures expressed in AUM's. Oklahoma responded in its July 21, 1994, revised amendment with explanatory information and revisions to Appendix O that addressed OSM's issue letter with respect to the calculation of a technical standard for total production on grazingland. However, in response to additional August 29, 1994, SCS comments concerning the calculation of a technical standard for total production on pastureland, Oklahoma, at its own initiative, proposed further revisions to Appendix O in its September 2, 1994, revised amendment (see finding No. 2.K).

With respect to the comment that the methods described for treatment of rills and gullies in Appendix R represent normal practices used for gully control in the State of Oklahoma, the Director, as discussed in finding No. 2.f above, is approving the guidelines for repair of rill and gullies in Appendix R as a normal husbandry practice.

SCS also responded on August 29, 1994, with the following comments (administrative record No. OK–959.18). SCS again recommended, that because both the terms ''pastureland'' and ''grazingland'' as used by Oklahoma in Appendix O can mean grazingland, Oklahoma use either ''native grazingland'' or ''rangeland'' in place of the term ''grazingland.'' As discussed above, in response to a similar comment made by SCS in its March 14, 1994, letter, OSM is not requiring that Oklahoma revise the Bond Release Guidelines in response to this comment.

SCS recommended another means of revising the method for calculating a technical productivity figure on pastureland in Appendix O of Oklahoma's Bond Release Guidelines. SCS recommended revising Appendix O to instruct the permittee to convert the SCS soil survey AUM productivity figure to an air-dried pounds of production per acre figure. The conversion would take into consideration the 50 percent utilization rate that is inherent in the AUM figure by doubling the pounds of vegetation consumed by one animal (780 pounds per acre). That is the SCS AUM productivity figure must be multiplied by 1560 to convert it to a production figure in pounds per acre. This converted figure would reflect the total soil production potential.

In addition, SCS recommended that Oklahoma revise Appendix F to require that each sample be clipped to the ground and that the area be sampled once in the spring for cool season grasses and once in the fall for warm season grasses. SCS also commented that the native grass figures listed in an SCS soil survey are direct production figures and therefore, clipping on grazingland will be a direct comparison.

In response to these SCS comments, Oklahoma, at its own initiative, in its September 2, 1994, submittal, revised, as recommended by the SCS, (1) Appendix F, concerning the method of production sampling, and (2) Appendix O, concerning the methods of calculating technical productivity standards on pastureland and grazingland. As discussed in finding No. 2.k above, the Director is approving Oklahoma's proposed revisions of Appendices F and O.

SCS commented that because of variability in weather and soil conditions, and interpolation of data, that the applicable productivity levels should be set at 90 percent of the yield goal. The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) and Oklahoma's rules at OAC 460:20–45–46(a)(2), require for success of revegetation that the operator demonstrate that it has achieved 90 percent of the success standard. In other words, the operation must, in order to demonstrate success of productivity, meet only 90 percent of the technical success standard that is calculated by the methods described in Appendix O of Oklahoma's Bond Release Guidelines. Therefore, because the Federal regulations and State rules already provide for the SCS recommendation, OSM is not requiring that Oklahoma further revise the Bond Release Guidelines in response to this comment.

SCS commented that Oklahoma should revise the definition of ''productivity'' in Appendix A in the Bond Release Guidelines to refer to the ''amount of total standing biomass'' rather than ''harvestable standing biomass.'' In response to this SCS comment, Oklahoma at its own initiative in its September 2, 1994, submittal, revised the definition of ''productivity'' as recommended by the SCS. As discussed in finding No. 2.i above, the Director is approving Oklahoma's proposed revision of the definition of ''productivity'' in Appendix A.

Finally, SCS responded on October 14, 1994, that because all revisions previously discussed with the Oklahoma State Office had been included in Oklahoma's September 2, 1994, revised amendment, it had no further comments (administrative record No. OK–959.25).

b. *Other Federal agencies.* The U.S. Fish and Wildlife Service responded on February 15 and August 3, 1994, that it had no comments on the proposed amendment (administrative record Nos. OK–959.02 and OK–959.13).

The U.S. Bureau of Mines responded on February 16 and September 25, 1994, that it had no comments regarding the proposed amendment (administrative record Nos. OK–959.03 and OK–959.23).

The U.S. Army Corps of Engineers responded on February 25, August 10, and September 30, 1994, that the proposed revisions were satisfactory (administrative record Nos. OK–959.04, OK–959.17, and OK–959.24).

The U.S. Bureau of Land Management responded on October 12, 1994, that the Bond Release Guidelines appeared to be technically correct (administrative record No. OK–959.26).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Oklahoma proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. OK–960). EPA responded on August 24, 1994, that it had no objections to approval of the proposed revisions (administrative record No. OK–962).

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. OK–960). Neither SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves, with additional requirements, Oklahoma's proposed amendment as submitted on February 17, 1994, and as revised and supplemented with additional explanatory information on July 21 and September 2, 1994.

With the requirement that Oklahoma further revise the Bond Release Guidelines, the Director approves, as discussed in: finding No. 2.e, subsections IV.A.1.a and b, and sections VII.A and B, concerning revegetation success standards for diversity, seasonality, permanence, and regeneration; and finding No. 2.f, subsections V.B.2.d and V.B.2.e, concerning the use of test plots as a statistically valid sampling technique for demonstrating success of productivity on prime farmlands.

The Director approves Oklahoma's revisions to the Bond Release Guidelines, as discussed in: finding No. 1, Appendices J and V, concerning nonsubstantive editorial revisions; finding No. 2.a, subsection I.E.3.b, concerning requirements for ground cover on land reclaimed for commercial or industrial use; finding No. 2.b, subsection I.F.3.d, concerning requirements for ground cover on previously mined areas; finding No. 2.c, subsection I.F.5.b, concerning the requirements for water discharged from permanent impoundments, ponds, diversions, and treatment facilities; finding No. 2.d, subsections II.B.2.d, III.B.2.d, and V.B.2.c, concerning the method for calculating a technical productivity standard on pastureland, grazingland, and prime farmland; finding No. 2.g, subsections V.B.2.f and VI.B.2.e, concerning the method for calculating a technical productivity standard for grain or hay crops on prime and nonprime farmland; finding No. 2.h, subsection VI.B.2.e, concerning the method for measuring row crop production on nonprime farmland; finding No. 2.i, Appendix A, concerning the definition of ''productivity;'' finding No. 2.j, Appendices A and R, concerning the definition of ''initial establishment of permanent vegetative cover'' and the repair of rills and gullies as a normal husbandry practice; and finding No. 2.k, Appendix F, concerning the method of production sampling, and Appendix O, concerning the methods of calculating technical productivity standards on pastureland and grazingland.

In accordance with 30 CFR 732.17(f)(1), the Director is also taking this opportunity to clarify in the required amendment section at 30 CFR 936.16 that, within 60 days of the publication of this final rule, Oklahoma must either submit a proposed written amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Oklahoma's established administrative or legislative procedures.

The Federal regulations at 30 CFR Part 936, codifying decisions concerning the Oklahoma program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12886 (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 12550) 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 Part 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 of 1969 (42 U.S.C. 4332(c)(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 which 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 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 29, 1994.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 936—OKLAHOMA

1. The authority citation for Part 936 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 936.15 is amended by adding paragraph (n) to read as follows:

§ 936.15 Approval of regulatory program amendments.

* * * * *

(n) Revisions to the following provisions of the Bond Release Guidelines, which include revegetation success standards and statistically valid sampling techniques, and guidelines for phase I, II, and III bond release, as submitted to OSM on February 17, 1994, and as revised and supplemented with explanatory information on July 21 and September 2, 1994, are approved effective January 10, 1995:

Subsection I.E.3.b, concerning requirements for ground cover on land reclaimed for commercial or industrial use;

Subsection I.F.3.d, concerning requirements for ground cover on previously mined areas;

Subsection I.F.5.b, concerning the requirements for water discharged from permanent impoundments, ponds, diversions, and treatment facilities;

Subsections II.B.2.d, III.B.2.d, and V.B.2.c, concerning the method for calculating a technical productivity standard on pastureland, grazingland, and prime farmland;

Subsections IV.A.1.a and b, and sections VII.A and B, concerning revegetation success standards for diversity, seasonality, permanence, and regeneration;

Subsections V.B.2.d and V.B.2.e, concerning the use of test plots as a statistically valid sampling technique for demonstrating success of productivity on prime farmlands;

Subsections V.B.2.f and VI.B.2.e, concerning the method for calculating a technical productivity standard for grain or hay crops on prime and nonprime farmland;

Subsection VI.B.2.e, concerning the method for measuring row crop production on nonprime farmland;

Appendix A, concerning the definitions of ''initial establishment of permanent vegetative cover'' and ''productivity;''

Appendix F, concerning the method of sampling for productivity;

Appendices J and V, concerning editorial revisions; and

Appendix R, concerning the repair of rills and gullies as a normal husbandry practice;

Appendix O, concerning the methods for calculating technical productivity standards on lands reclaimed for use as pastureland and grazingland.

3. Section 936.16 is revised to read as follows:

§ 936.16 Required regulatory program amendments.

Pursuant to 30 CFR 732.17(f)(1), Oklahoma is required to submit to OSM by the specified date the following written, proposed program amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Oklahoma's established administrative or legislative procedures.

(a) Reserved.

(b) Reserved.

(c) By March 13, 1995, Oklahoma shall revise sections II.B and III.B in the Bond Release Guidelines to identify the method it will use in developing a phase III revegetation success standard for diversity on lands reclaimed for use as pasturland and grazingland.

(d) Reserved.

(e) Reserved.

(f) Reserved.

(g) By March 13, 1995, 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 the U.S. Soil Conservation Service regarding the use of test plots as a statistically valid sampling technique for demonstrating success of productivity on prime farmlands.

[FR Doc. 95–568 Filed 1–9–95; 8:45 am]

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30 CFR Part 944

Utah Regulatory Program

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

SUMMARY: OSM is announcing receipt of additional explanatory information pertaining to a previously proposed amendment to the Utah regulatory program (hereinafter, the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The additional explanatory information for Utah's proposed rule pertains to liability self-insurance requirements for coal mining operations. The amendment is intended to allow coal mining operators who qualify as government entities under the Utah Interlocal Cooperation Act and the Utah Governmental Immunity Act to provide a certain amount of their liability insurance through self-insurance.

DATES: Written comments must be received by 4:00 p.m., m.s.t., January 25, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below.