

than that required to achieve the approved postmining land use.

#### 7. Section III–C, Sampling Design

North Dakota proposes revising the sampling design section. Several minor editorial changes have been made. However, the major revisions involve changes to the method for determining adequate sample sizes for two populations and the addition of a method for determining adequate sample sizes for stratified sampling. The change to the two-sample sample adequacy equation involves simplifying the calculation of the variance and mean used in the currently approved formula by simply using the data from the area, either reclaimed or reference, that has the highest variance and removing the complexity in allocating the number of samples required between the reclaimed area and the reference area.

The State has also added a method for calculating sample adequacy for stratified sampling. The proposed formula allocates the minimum sample size for each stratum based on the total number of samples necessary to adequately sample the entire area, the area of each stratum, and the variance associated with the stratum.

The regulations at 30 CFR 816.116(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. Ground cover, production, or stocking shall be considered equal to the approved success standard when they are not less than 90 percent of the success standard. The sampling techniques for measuring success shall use a 90-percent statistical confidence interval (*i.e.*, one-sided test with a 0.10 alpha error).

OSM has reviewed the proposed changes and additions and determined that these proposed methods are recognized approaches for determining adequate sample sizes. Use of either of these formulas, as appropriate, ensures that the sampling techniques for measuring revegetation success use a 90-percent statistical confidence interval. The proposed revisions are consistent with and no less effective than the Federal regulations.

#### 8. Section III–D, Methods for Measuring Productivity, Cover, and Density

North Dakota has made numerous revisions throughout this section. In general, many of these proposed revisions are for clarification and do not substantively revise this section. One significant change is that North Dakota

proposes to allow the use of combines equipped with the global positioning system yield monitoring systems. The document provides specific guidance on how these systems can be used. This includes requiring calibration of the yield monitor and submission of that information along with test weight, moisture content, and dockage of the crop. If the yield monitor calibration does not correct yield values for test weight and moisture content, these corrections must also be made when reporting yield data used to show reclamation success. OSM has reviewed this proposed method and determined that it is a statistically valid sampling technique. The State has also established minimum sample sizes for evaluating hay production using both whole field and partial field harvest. This is consistent with the Federal regulations.

OSM has determined that the proposed changes to the measurements section of the document are consistent with and no less effective than 30 CFR 816.116(a)(1) and (2).

#### 9. Section III–E, Statistical Analysis

The “Statistical Analyses” section has been rewritten to standardize the symbols used in the equations. Also, examples have been added on how to use the equations. OSM has reviewed the proposed section, which also replaces existing Appendix C, Statistical Formulae and t Distribution, and determined that all the proposed statistical equations are widely used, correctly and appropriately.

The regulations at 30 CFR 816.116(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 regulations at 30 CFR 816.116(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. Ground cover, production, or stocking shall be considered equal to the approved success standard when they are not less than 90 percent of the success standard. The sampling techniques for measuring success shall use a 90-percent statistical confidence interval (*i.e.*, one-sided test with a 0.10 alpha error). OSM has determined that the proposed changes to this section are consistent with and no less effective than the Federal regulations at 30 CFR 816.116(a)(1) and (2).

## IV. Summary and Disposition of Comments

### Public Comments

We asked for public comments on the amendment in the February 11, 2003, **Federal Register** (68, FR 6842 \* \* \* Administrative Record No. ND–GG–05), but did not receive any.

### Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the North Dakota program (Administrative Record No. ND–GG–03). No comments were received.

### Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued 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 North Dakota proposed to make in this amendment pertains to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

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

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On December 9, 2002, we requested comments on North Dakota's amendment (Administrative Record No. ND–GG–03). The SHPO responded on December 16, 2002, that he had no comments (Administrative Record No. ND–GG–04). The ACHP did not respond.

## V. OSM's Decision

Based on the above findings, we approve North Dakota's November 21, 2002, amendment, as discussed in: finding A, Minor Revisions to North Dakota's Revegetation Document; finding B, Revisions to North Dakota's Policy Document for Consistency with the Previously-Approved North Dakota Regulatory Program; finding C.1, Section II–C concerning cropland; finding C.2, Section II–D, concerning native grassland; finding C.3, Section II–E concerning tame pastureland; finding C.4, Section II–F concerning woodland success standards; finding C.5, Section II–G concerning shelterbelts; finding