**Section 1816.106 Backfilling and Grading: Previously Mined Areas**

Remining operations on previously mined areas that contain a preexisting highwall shall comply with the requirements of Sections 1816.102 through 1816.107 except as provided in this Section. The requirements of Section 1816.102(a)(1) and (2) requiring the elimination of highwalls shall not apply to remining operations where the volume of all reasonably available spoil is demonstrated in writing to the Department to be insufficient to completely backfill the reaffected or enlarged highwall. The highwall shall be eliminated to the maximum extent technically practical in accordance with the following criteria:

a) All spoil generated by the remining operation and any other reasonably available spoil shall be used to backfill the area. Reasonably available spoil from the previous mining operation in the immediate vicinity of the remining operation shall be included within the permit area.

b) The backfill shall be graded to a slope which is compatible with the approved post-mining land use and which provides drainage and long-term stability in accordance with Sections 1816.41(a) and 1816.102(a)(3).

c) Any highwall remnant shall be stable, as determined by factors such as excessive sloughage and cracking, and not pose a hazard to the public health and safety or to the environment. The operator shall demonstrate that the highwall remnant is stable.

d) Spoil placed on the outslope during previous mining operations shall not be disturbed if such disturbances will cause instability of the remaining spoil or otherwise increase the hazard to the public health and safety or to the environment.

(Source: Amended at 11 Ill. Reg. 8131, effective July 1, 1987)