**Section 1817.75 Disposal of Excess Spoil: Preexisting Benches**

a) The Department may approve the disposal of excess spoil through placement on preexisting benches, provided that all the standards set forth in Section 1817.71(a), (b)(1), (d) through (i) and the requirements of this Section are met.

b) Excess spoil shall be placed only on the solid portion of the preexisting bench.

c) The fill shall be designed, using current, prudent engineering practices, to attain a long-term static safety factor of 1.3 for all portions of the fill.

d) The preexisting bench shall be backfilled and graded to:

1) Achieve the most moderate slope possible which does not exceed the angle of repose; and

2) Eliminate the highwall to the maximum extent technically practical.

e) Disposal of excess spoil from an upper actively mined bench to a lower preexisting bench by means of gravity transport may be approved by the Department provided that:

1) The gravity transport courses are determined on a site-specific basis by the operator as part of the permit application and approved by the Department to minimize hazards to health and safety and to ensure that damage will be minimized between the benches, outside the set course, and downslope of the lower bench should excess spoil accidentally move;

2) All gravity transported excess spoil, including that excess spoil immediately below the gravity transport courses and any preexisting spoil that is disturbed, is rehandled and placed in horizontal lifts in a controlled manner, concurrently compacted as necessary to ensure mass stability and to prevent mass movement, and graded to allow surface and subsurface drainage to be compatible with the natural surroundings and to ensure a minimum long-term static safety factor of 1.3. Excess spoil on the bench prior to the current mining operation that is not disturbed need not be rehandled except where necessary to ensure stability of the fill as determined by factors such as excessive sloughing and cracking;

3) A safety berm is constructed on the solid portion of the lower bench prior to gravity transport of the excess spoil. Where there is insufficient material on the lower bench to construct a safety berm, only that amount of excess spoil necessary for the construction of the berm may be gravity transported to the lower bench prior to construction of the berm.

4) Excess spoil shall not be allowed on the downslope below the upper bench except on designated gravity transport courses properly prepared according to Section 1817.22. Upon completion of the fill, no excess spoil shall be allowed to remain on the designated gravity transport course between the two (2) benches and each transport course shall be reclaimed in accordance with the requirements of this Part.

(Source: Added at 11 Ill. Reg. 8250, effective July 1, 1987)