**Section 1817.133 Post-Mining Land Capability**

a) All disturbed areas shall be restored in a timely manner to a condition capable of supporting:

1) The uses which they were capable of supporting prior to any mining; or

2) Higher or better uses of which there is a reasonable likelihood of restoration: Provided that, no plan of restoration shall be approved unless use of the area as proposed does not:

A) Present any actual or probable hazard to public health or safety;

B) Pose any actual threat of diminution or pollution pursuant to Section 1817.41; or

C) That the proposed land use following restoration is not found to be impracticable or unreasonable by the Department or determined by the Department to be inconsistent with land use policies and plans which are applicable, or to involve unreasonable delay in implementation. No restoration plan shall be approved if the proposed land use following reclamation is violative of other applicable law.

b) The premining capability of land to which the post-mining land capability is compared shall be the capabilities that the land would have supported if it had not been previously mined and had been properly managed. The post-mining land capability for land that has been previously mined and not reclaimed shall be judged on the basis of the land capability that existed prior to any mining; provided that, if the land cannot be reclaimed to the land capability that existed prior to any mining because of the previously mined condition, the post-mining land capability shall be judged on the basis of the highest and the best capability that can be achieved which is compatible with surrounding areas and does not require the disturbance of areas previously unaffected by mining. Quantification of land capability is to be done on the basis of acreage summaries for each land capability category, as defined in 62 Ill. Adm. Code 1701.5. The total acreage for each land capability category should approximate the corresponding premining acreage. Changes in total acreage from one land capability class to another shall require approval in accordance with Section 1817.133(a)(2).

c) In determining the capability of affected land, the Department shall use as a guideline the handbook entitled: Land Capability Classification, Agriculture Handbook No. 210, published by the Natural Resources Conservation Service of the U.S. Department of Agriculture. A copy of this handbook shall be on file with the Department and the Secretary of State. Interested persons may present views respecting the capability of affected lands in the due course of the Department's review of the permit application.

(Source: Amended at 20 Ill. Reg. 1993, effective January 19, 1996)