§ 23-2713. Mined land-use plan.

1. All mining and reclamation activities on the affected land shall be conducted in accordance with an approved mined land-use plan. The approved mined land-use plan shall consist of both a mining and a reclamation plan, and any other information which the department deems necessary in order to achieve the purposes of this title.

(a) The mining plan shall consist of a written and graphic description of the proposed mining operation, including the boundaries of the land controlled by the applicant, the outline of potential affected acreage and the general sequence of areas to be mined through successive permit terms. The graphic description shall include the location of the mine and shall identify the land affected by mining after April first, nineteen hundred seventy-five, including but not limited to areas of excavation; areas of overburden, tailings, and spoil; areas of topsoil and mineral stock piles; processing plant areas; haulageways; shipping and storage areas; drainage features and water impoundments. The written description of the plan shall include the applicant's mining method and measures to be taken to minimize adverse environmental impacts resulting from the mining operation.

(b) The reclamation plan shall consist of a graphic and written description of the proposed reclamation. The graphic description shall include maps and cross sections which illustrate the final physical state of the reclaimed land. The written description of the plan shall describe the manner in which the affected land is to be reclaimed, and a schedule for performing such reclamation.

(c) A draft environmental impact statement prepared pursuant to article eight of this chapter may be submitted in lieu of a mined land-use plan if the department determines that it conforms to the requirements of this section and the rules and regulations promulgated pursuant thereto.

(d) The department may, after notice and an opportunity for a hearing, impose a reclamation plan in the absence of an approved reclamation plan or upon a finding of noncompliance with or failure of an approved reclamation plan.

2. The reclamation of all affected land shall be completed in

accordance with the schedule contained in the approved mined land-use plan pertaining thereto. The schedule, where possible, shall provide for orderly, continuing reclamation concurrent with mining. The permittee shall submit to the department a notice of termination of mining within thirty days after such termination. Reclamation of the affected land shall be completed within a two year period after mining is terminated, as determined by the department, unless the department deems it in the best interest of the people of the state to allow a longer period for reclamation. The permittee shall submit to the department a notice of completion of reclamation within thirty days of such completion. If the department fails to approve or disapprove the adequacy of reclamation within ninety days after receipt of the notice of completion of reclamation, the permittee may notify the department of such failure by means of certified mail return receipt requested addressed to the commissioner. If within thirty days after receipt of such notice, the department fails to mail a decision, the permittee shall be relieved of the obligation to maintain financial security in respect to reclamation; provided, however, nothing herein shall relieve the permittee of the obligation to accomplish adequate reclamation. The permittee shall file periodic reports at such times as the department shall require, indicating areas for which reclamation has been completed. The department shall inspect such areas and notify the permittee whether the reclamation is in accordance with the approved plan or whether there are deficiencies that must be corrected.