

LAND QUALITY DIVISION (LQD)

Noncoal Chapter 5

Exploration by Dozing

TAKINGS ANALYSIS

1. Private Property Affected? – YES

Coal Chapter 5 provides regulations for mineral exploration operations which may be conducted on private property.

2. Mandated by State/Federal law? – NO

The proposed revisions to Coal Chapter 5 are a Department initiative base on experience of regulation exploration operations and are intended to improve the regulatory process and recognize differences that may exist between two operations.

3. Advance Statutory Purpose? – NA

NA

4. Permanent Occupation of Private Property? – NO

The proposed regulations do not result in a permanent occupation of private property because they regulate a temporary land use.

5. Dedication of property of grant an easement? – NO

The proposed rules do not require a property owner to grant any dedications of property or grant an easement to the property.

6. Action interfere with investment-backed expectations? – NO

The proposed rules regulate an already heavily regulated industry and do not impose additional substantial burdens to mining operations. The proposed rules probably increase the ability to recoup investment costs because materials may not be sold on the open market.

7. Does character of government action balance public interest and private burdens? – NO

The proposed rules merely recognize two types of exploration by dozing operations.

8. Action deprive owner of all economically viable uses of the property? – NO

The proposed revisions to Noncoal Chapter 5 apply to only one type of use of the property. The proposed rules do not preclude any other uses of the property.

9. Does the action have a significant impact on the landowner's economic interest? – NO

The proposed rules would not significantly impact the landowner's economic interest because the proposed rules still allow a landowner to develop the mineral resources on a given piece of property.

10. Does the action deny the owner a fundamental attribute of ownership? – NO

The proposed rules do not deny the owner a fundamental attribute of ownership. The proposed

rules do not address ownership issues.

11. Action serve same purpose that would be served by prohibition on use of land? – NO

The proposed rules allow a person to continue to use land for mineral exploration operations.

12. Could be addressed in less restrictive manner? – NO

The proposed rules are intended recognize that different types of exploration operations exist.