

LAND QUALITY DIVISION (LQD)

**Coal Chapters 10 – Coal Exploration and 13 – Surface Coal Mining Permit Revisions
TAKINGS ANALYSIS**

1. Private Property Affected? – YES

Coal Chapters 10 and 13 provide regulations for Surface Coal Mining Operations which may be conducted on private property.

2. Mandated by State/Federal law? – NO

The proposed revisions to Coal Chapter 10 and 13 were drafted in response to provide consistency with legislative changes. SF0044 enacted during the 2020 legislative session revised 35-11-406 to provide updates to procedures regarding public notice and involvement in permitting actions. The proposed rules provide consistency between the statute and regulations. Additional revisions were made at the request of the Wyoming Attorney General's Office and include grammatical corrections and organizational changes.

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.

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

The proposed rules merely detail procedures for public involvement in pending permitting actions, and make grammatical and organizational changes to the chapters.

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

The proposed revisions to Coal Chapters 10 and 13 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 surface coal mining operations.

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

The proposed rules make provide consistency between the Environmental Quality Act and Coal regulations. Substantive changes were limited to ensuring that consistency.

TAKINGS CHECKLIST

	CRITERIA	YES	NO
1.	Does the action affect private property? (If no, no further inquiry is necessary.)		
2.	Is the action mandated by State or federal law? (If yes, go to question 3. If no, go to question 4.)		
3.	Does the proposed action advance a statutory purpose?		
4.	Does the action result in permanent occupation of private property?		
5.	Does the action require the property owner to dedicate property or grant an easement?		
6.	Does the regulatory action interfere with the owner's investment-backed expectations?		
7.	Does the character of the government action balance the public interest and private burdens?		
8.	Does the action deprive the owner of all economically viable uses of the property?		
9.	Does the action have a significant impact on the landowner's economic interest?		
10.	Does the action deny the owner a fundamental attribute of ownership?		
11.	Does the action serve the same purpose that would be served by directly prohibiting use of the land?		
12.	Could the problem which has necessitated the action be addressed in a less restrictive manner?		

If these questions are answered yes, legal counsel should be consulted, for it is possible the proposed action will be a taking.