

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.

LAND QUALITY DIVISION
Noncoal Chapter 11
In Situ Mining
TAKINGS ANALYSIS

1. Private Property Affected? – YES

Noncoal Chapter 11 provides regulations for In Situ Mining Operations which may be conducted on private property.

2. Mandated by State/Federal law? – NO

The proposed revisions to Noncoal Chapter 10 were drafted in response to editorial comments from the Legislative Service Office and to reinsert a sentence that was inadvertently deleted when creating the final files for submission to the Secretary of State.

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 make minor revisions as suggested by Legislative Service Office and to correct an editing error.

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

The proposed rules merely make small grammatical corrections and reinsert on sentence that was deleted.

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

The proposed revisions to Noncoal Chapter 11 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 in situ mining operations.

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

The proposed rules make only minor grammatical corrections and correct an editorial error.