

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 (LQD)

Noncoal Chapters

2 – Regular Noncoal Mine Permit Applications

9 – Permit Application Requirements for Small Mining Operations

TAKINGS ANALYSIS

1. Private Property Affected? – NO

Noncoal Chapter 2 was revised to include a new section of rules regarding the use of inert materials as backfill at noncoal mining operations. The proposed revisions add a new use for inert materials that would otherwise be disposed of in community landfills. Noncoal Chapter 9 was revised to make the new rule section in Chapter 2 applicable to small mine operations as well as regular noncoal mines.

2. Mandated by State/Federal law? – NA

3. Advance Statutory Purpose? – NA

4. Permanent Occupation of Private Property? – NA

5. Dedication of property of grant an easement? – NA

6. Action interfere with investment-backed expectations? – NA

7. Does character of government action balance public interest and private burdens? – NA

8. Action deprive owner of all economically viable uses of the property? – NA

9. Does the action have a significant impact on the landowner's economic interest? – NA

10. Does the action deny the owner a fundamental attribute of ownership? – NA

11. Action serve same purpose that would be served by prohibition on use of land? – NA

12. Could be addressed in less restrictive manner? – NA