

JUL 30 2013

**LAND QUALITY**Jim Ruby, Executive Secretary  
Environmental Quality Council**NONCOAL CHAPTERS 9 (Small Mines) and 10 (Limited Mining Operations)****TAKINGS ANALYSIS**1. Private Property Affected? – YES

The proposed regulations are intended to regulate small mine operations (Chapter 9) and limited mining operations (Chapter 10) which may take place on private property.

2. Mandated by State/Federal law? – YES

The proposed rule package was initiated in response to the legislative changes which became effective on July 1, 2013. The proposed rules are intended to conform to the new standards for small mine and limited mining operations.

3. Advance Statutory Purpose? – YES

The proposed rules are intended to regulate small mine and limited mining operations which allows the State to protect the environment while allowing private property owners to develop the resources found on the private property.

4. Permanent Occupation of Private Property? – NO

The proposed rules do not result in a permanent occupation of private property. The proposed rules define how the small mine and limited mining operations are to conduct the mining operations.

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

The rules as proposed do not require the 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 field and do not impose additional substantial burdens to property owners. The proposed rules actually allow private property owners to mine more material than was possible in the past.

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

The proposed rules regulate small mines and limited mining operations (private) while protecting the environment. The rules are intended to insure that small mines and limited mining operations are conducted in a manner that minimizes the impacts from mining.

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

The proposed rules allow for a specific type of economic use of private property and regulate that industry. The proposed rules do not affect any other land uses. The proposed rules do not preclude a private property owner from using the property in other economically viable uses of the land.

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

The proposed rules do not significantly impact the landowner's economic interest. The proposed rules expand a landowners ability to use the land for small mining or limited mining operations.

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. First, the landowner would have to voluntarily subject themselves to the regulations by engaging in mining. The proposed rules do not require any easements or for the landowner to give up any fundamental rights associated with the property.

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

The proposed rules are intended to allow for the development of mineral resources on the property while protecting the environment. Prohibition would not allow the development of the mineral resources.

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

The proposed rules mirror the 2013 legislative changes and do no expand on that legislation.