

**Water Quality Rules and Regulations Chapter 28
Takings Checklist Analysis for Proposed Revisions**

1. *Does the action affect private property?* Yes. Chapter 28 contains regulations which apply to all Commercial Oilfield Waste Disposal Facilities (COWDFs).
2. *Is the action mandated by State or federal law?* No.
3. *Does the proposed action advance a statutory purpose?* No. The proposed revisions streamline and clarify the existing design, construction, operation, monitoring, and reporting requirements other Water Quality Rules and Regulations chapters into a new chapter.
4. *Does the action result in permanent occupation of private property?* No. The proposed revisions do not require the design or construction of COWDFs.
5. *Does the action require the property owner to dedicate property or grant an easement?* No. The chapter does not dictate specific placement COWDFs on private property nor does it require easements.
6. *Does the regulatory action interfere with the owner's investment-backed expectations?* No. The design and construction standards which applicants must comply with in order to obtain a permit are not prohibitive.
7. *Does the character of the government action balance the public interest and private burdens?* Yes. The purpose of existing state statutes Wyoming Statute § 35-11-306 governing oil field waste disposal facilities, as declared by the Wyoming legislature is to protect property rights, comply with environmental requirements, and facilitate the use and production of Wyoming energy sources.
8. *Does the action deprive the owner of all economically viable uses of the property?* No. The revisions are neither prohibitive of economically viable uses nor do they eliminate beneficial uses of the property.
9. *Does the action have a significant impact on the landowner's economic interest?* No. The revisions do not reduce or eliminate reasonable profitable uses of the property nor do they contribute to a severe reduction in property value.
10. *Does the action deny the owner a fundamental attribute of ownership?* No. The revisions do not deny property owners of the right to possess, exclude others, or dispose of all or a portion of their property.
11. *Does the action serve the same purpose that would be served by directly prohibiting use of the land?* No. Directly prohibiting use of the land would be much more restrictive than the proposed revisions.
12. *Could the problem which has necessitated the action be addressed in a less restrictive manner?* No. Less restrictive provisions could potentially endanger human health, the environment, or private property rights.

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.