

**Solid Waste Rules and Regulations Chapters 1 and 7
Takings Checklist Analysis for Proposed Revisions**

TAKINGS CHECKLIST

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

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

1. Does the action affect private property? – Yes.
The proposed revisions to Solid Waste Rules and Regulations Chapters 1 and 7 may affect private property because the rules apply to solid waste facilities that may be operated on private property. However, a waste management permit, with associated regulatory restrictions, cannot be issued without first obtaining landowner consent. State acquisition of private property is not required in order to institute the rules. The proposed revisions do not affect economic use or value of the regulated facilities.

2. Is the action mandated by State or federal law? – Yes
Under 40 Code of Federal Regulations (CFR) Part 256 states were required to develop a plan that address “all solid waste in the state that poses potential adverse effects on health or the environment or provides opportunity for resource conservation or resource recovery.” Under 40 CFR parts 257 and 258 states were required to develop permitting programs to ensure compliance with Federal criteria. Wyoming Statute (W.S.) § 35-11-502(a) states that no person, except when authorized under the permit system established by the Wyoming Environmental Quality Act, shall locate, construct, operate or close a solid waste management facility or modify the design, construction or operation of a solid waste management facility.

3. Does the proposed action advance a statutory purpose? – Yes
The proposed rules are intended to meet the requirements of W.S. § 35-11-502 through 508, and 514 through 515.

7. Does the character of the government action balance the public interest and private burdens? – Yes
The proposed rules deal with solid waste management permitting and financial assurance requirements for solid waste facilities operated by private or government entities on lands that may or may not be privately owned to ensure protection of human health and the environment.