

Wyoming Solid Waste Rules Proposed Chapter 18

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?		
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.*

*The attorney general’s office was consulted for legal counsel. The rule being adopted protect human health and safety, and therefore are not a taking.

**Solid Waste Rules and Regulations (SWRR), Proposed Chapter 18
Takings Checklist Analysis for Proposed Rule**

1. Does the action affect private property? – Yes

The proposed rule 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 implement the rule.

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

The proposed rules deal with waste management and corrective action requirements for disposal of coal combustion residuals generated from the combustion of coal at electric utilities and independent power producers in landfills and surface impoundments, industrial solid waste facilities to ensure protection of human health and the environment.