

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.

**Water Quality Rules and Regulations Chapter 25
Takings Checklist Analysis for Proposed Revisions**

1. *Does the action affect private property?* Yes. Chapter 25 “contains minimum standards for the design and construction of small wastewater systems which are defined by W.S. 35-11-103(c)(ix)...In addition, this Chapter contains the minimum standards for the design and construction of Underground Injection Control (UIC) Class V facilities 5C1-5C3, 5C6, 5D1, 5E1, 5E3-5E5.” The facilities which are considered small wastewater systems or UIC Class V facilities are private properties.
2. *Is the action mandated by State or federal law?* No. The proposed revisions were not initiated in response to state or federal law. The revisions were initiated in order to update information which had not been significantly changed since it was promulgated in 1984.
3. *Does the proposed action advance a statutory purpose?* Not applicable.
4. *Does the action result in permanent occupation of private property?* No. The proposed revisions do not require the design or construction of small wastewater systems or design and construction of UIC Class V facilities. The proposed revisions merely update minimum standards for the design and construction of these facilities for those individuals wishing to install these types of facilities.
5. *Does the action require the property owner to dedicate property or grant an easement?* No. The chapter requires setbacks from wells, public water supply wells, property lines, foundation walls, potable water pipes, septic tanks, surface water, and cisterns in order to protect human health, but the chapter does not dictate specific placement of small wastewater systems 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 revisions are protective of human health. The revisions do not target specific properties or property owners, do not directly benefit the State of Wyoming, and the revisions are not proposed in bad faith. The revisions do aim to protect property owners from disease causing organisms. The revisions are designed to be helpful to property owners. For many of the wastewater systems requiring a permit application, the division will allow homeowners to fill out a design package, prepared internally by a registered professional engineer, instead of requiring the homeowner to hire a registered professional engineer to prepare the required applications.
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.