

SENATE FILE NO. SF0046

Discharged water management.

Sponsored by: Joint Minerals, Business and Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to water; providing for the management of
2 surface water discharges and authorizing the issuance of
3 general permits for discharged water as specified;
4 providing for additional management of water discharged
5 from coalbed methane natural gas wells; authorizing
6 construction to limit effects of excess surface discharges
7 of coalbed methane water; authorizing assessment of damages
8 related to such construction; providing definitions;
9 providing a review process; providing rulemaking authority;
10 providing for enforcement; providing for penalties; and
11 providing for an effective date.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

15 **Section 1.** W.S. 41-3-116 and 41-3-507 are created to
16 read:

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2 **41-3-116. Curtailment of excess surface discharges;**
3 **restrictions on water produced from coalbed natural gas**
4 **wells; orders; penalties.**

5

6 (a) The state engineer may order curtailment of any
7 surface discharges in excess of the natural capacity of a
8 channel upon a determination by the state engineer that
9 excess surface discharge is occurring.

10

11 (b) Except as provided in W.S. 41-3-507 and
12 subsection (e) of this section, it is unlawful for the
13 quantity of water discharged from individual or combined
14 coalbed natural gas wells to exceed the natural capacity of
15 a channel with intermittent or ephemeral natural flow into
16 which the surface discharge occurs. For purposes of this
17 section, "natural capacity" shall be as defined in W.S.
18 41-3-507(p)(ii).

19

20 (c) In the event more than one (1) coalbed natural
21 gas well is causing the excess surface discharge described
22 in subsection (b) of this section, the curtailment of such
23 excess surface water discharge shall begin with the
24 operator with the most recently commenced surface discharge

1 and then proceed to the curtailment of any additional
2 discharges with increasingly older dates of discharge
3 commencement until the natural capacity of the channel is
4 no longer exceeded.

5

6 (d) Natural flow shall not be included in a
7 measurement of flow when determining a violation under this
8 section.

9

10 (e) Notwithstanding any other provision in this
11 section, excess surface water discharges shall not be
12 unlawful if on land he owns or controls, the landowner
13 stores the excess surface water discharges in any
14 reservoir, makes beneficial use of the excess surface water
15 discharges or otherwise consents to the flow of the surface
16 water discharges that exceed the natural capacity of the
17 channel.

18

19 (f) Any violation of this section shall be punishable
20 pursuant to W.S. 41-3-616.

21

22 **41-3-507. Management of water discharged from coalbed**
23 **natural gas wells; definitions; rulemaking authority.**

24

1 (a) Surface discharge of produced water from any coal
2 bed natural gas well subject to permitting by the state
3 engineer into a channel with an intermittent or ephemeral
4 natural flow may be limited to the natural capacity of the
5 channel downstream of the discharge.

6

7 (b) Nothing in this section shall prevent a landowner
8 on land he owns or controls from storing excess surface
9 water discharges in any reservoir, making beneficial use of
10 the excess surface water discharges or otherwise consenting
11 to the flow of surface water discharges that exceed the
12 natural capacity of the channel.

13

14 (c) A landowner who believes he has been or will be
15 affected by surface discharges resulting from coalbed
16 natural gas wells and who has a reach of interest, may file
17 a written request with the state engineer stating the
18 nature and extent of the actual and potential effects of
19 those surface discharges in the reach of interest and
20 asking the state engineer to review the flow
21 characteristics of the actual or potential surface
22 discharges through the reach of interest.

23

1 (d) Upon receipt of the written request from the
2 landowner under subsection (c) of this section, the state
3 engineer shall proceed with an evaluation of the natural
4 capacity of the channel and shall complete this evaluation
5 within one hundred twenty (120) days.

6
7 (e) If the state engineer finds the capacity in the
8 reach of interest is less than the natural capacity of the
9 water course, the state engineer or superintendent of the
10 water division in which the reach of interest exists shall
11 order the necessary construction of additional capacity in
12 the reach of interest, up to the natural capacity of the
13 water course.

14
15 (f) In the event more than one (1) coalbed natural
16 gas operator is causing surface discharge in excess of the
17 capacity of the reach of interest, the order under
18 subsection (e) of this section shall be issued to the
19 operator with the most recently commenced discharge and to
20 any operator with increasingly older dates of discharge
21 commencement until all operators who have caused such
22 excessive discharge have been included. The costs of
23 construction resulting from the order shall be prorated to
24 each operator contributing to the excess of the capacity of

1 the reach of interest, based upon the percentage of each
2 operator's contribution to the total excess surface
3 discharge.

4

5 (g) All parties included in the order under
6 subsection (e) of this section shall provide a construction
7 plan to the landowner and the state engineer for review.

8

9 (h) The landowner and the state engineer's office
10 shall review and approve the construction plan, which shall
11 include requirements for access, mitigation of damages
12 caused by construction and reclamation. Reclamation
13 requirements may include removal of facilities, fixtures or
14 other features constructed under the construction plan.
15 The construction work under the construction plan shall be
16 completed within one (1) year after the state engineer's
17 written approval of the construction plan, unless the time
18 is extended in writing by the state engineer.

19

20 (j) If the landowner fails to provide written
21 approval of the final construction plans or fails to
22 provide written approval for access for planning,
23 construction or reclamation, the construction order shall
24 be revoked.

1

2 (k) The state engineer is authorized to assess
3 damages related to construction against the discharging
4 party or parties, in addition to those covered by the
5 construction plan, upon receipt, review and approval of
6 documentation submitted by the landowner or any party
7 included in the order.

8

9 (m) If either the landowner or any discharging party
10 is aggrieved by any order of the state engineer under this
11 section, the order may be appealed to the board of control
12 pursuant to W.S. 41-3-517.

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14 (n) The state engineer shall adopt reasonable rules
15 and regulations necessary for the implementation and
16 administration of this section.

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18 (o) Any violation of this section shall be punishable
19 pursuant to W.S. 41-3-616. Nothing in this section shall
20 in any way limit, delay or preempt the exercise or
21 assertion of any other civil or administrative claim or
22 remedy available to any landowner or any person or entity
23 discharging coalbed natural gas water.

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1 (p) As used in this section:

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3 (i) "Landowner" means the person or entity with
4 fee title to the land containing the reach of interest and
5 who is filing a request under this section;

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7 (ii) "Natural capacity" means the bank to bank
8 hydraulic carrying capacity, expressed in cubic feet of
9 water per second of time, of the primary naturally formed
10 channel through which runoff would typically flow, using
11 the predominant cross-sectional characteristics exhibited
12 by the channel in the vicinity of the reach of interest.
13 These channel cross-sections may be obtained upstream or
14 downstream of the reach of interest;

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16 (iii) "Reach of interest" means that section of
17 a water course with intermittent or ephemeral flow that is
18 alleged to have insufficient hydraulic capacity to convey
19 water when compared to the natural capacity of a channel.

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21 **Section 2.** W.S. 35-11-302(a)(v) is amended to read:

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23 **35-11-302. Administrator's authority to recommend**
24 **standards, rules, regulations or permits.**

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2 (a) The administrator, after receiving public comment
3 and after consultation with the advisory board, shall
4 recommend to the director rules, regulations, standards and
5 permit systems to promote the purposes of this act. Such
6 rules, regulations, standards and permit systems shall
7 prescribe:

8

9 (v) Standards for the issuance of permits as
10 authorized pursuant to section 402(b) of the Federal Water
11 Pollution Control Act as amended in 1972, and as it may be
12 hereafter amended, including general permits;

13

14 **Section 3.** This act is effective July 1, 2008.

15

16

(END)