

HOUSE BILL NO. HB0014

Discharged water management.

Sponsored by: Joint Agriculture, State and Public Lands
and Water Resources Interim Committee

A BILL

for

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

1

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. For purposes of
10 this section, "surface discharge" shall be as defined in
11 W.S. 41-3-507(p)(iv).

12

13 (b) Except as provided in W.S. 41-3-507 and
14 subsection (e) of this section, it is unlawful for the
15 quantity of water discharged from individual or combined
16 coalbed natural gas wells to exceed the natural capacity of
17 a channel with intermittent or ephemeral natural flow into
18 which the surface discharge occurs. For purposes of this
19 section, "natural capacity" shall be as defined in W.S.
20 41-3-507(p)(ii).

21

22 (c) In the event more than one (1) coalbed natural
23 gas well is causing the excess surface discharge described
24 in subsection (b) of this section, the curtailment of such

1 excess surface water discharge shall begin with the
2 operator with the most recently commenced surface discharge
3 and then proceed to the curtailment of any additional
4 discharges with increasingly older dates of discharge
5 commencement until the natural capacity of the channel is
6 no longer exceeded.

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

11

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

18

19 (f) If either the landowner or any discharging party
20 is aggrieved by any order of the state engineer under this
21 section, the order may be appealed to the board of control
22 pursuant to W.S. 41-3-517.

23

1 (g) The state engineer shall adopt reasonable rules
2 and regulations necessary for the implementation and
3 administration of this section.

4
5 (h) Any violation of this section shall be punishable
6 pursuant to W.S. 41-3-616.

7

8 **41-3-507. Management of water discharged from coalbed**
9 **natural gas wells; definitions; rulemaking authority.**

10

11 (a) Surface discharge of produced water from any
12 coalbed natural gas well subject to permitting by the state
13 engineer into a channel with an intermittent or ephemeral
14 natural flow may be limited to the natural capacity of the
15 channel downstream of the discharge.

16

17 (b) A landowner, on land he owns or controls, may
18 store surface water discharges in any reservoir, make
19 beneficial use of the surface water discharges or otherwise
20 consent to the flow of surface water discharges that shall
21 not exceed the natural capacity of the channel.

22

23 (c) A landowner who believes he has been or will be
24 affected by surface discharges resulting from coalbed

1 natural gas wells and who has a reach of interest, may file
2 a written request with the state engineer stating the
3 nature and extent of the actual and potential effects of
4 those surface discharges in the reach of interest and
5 asking the state engineer to review the flow
6 characteristics of the actual or potential surface
7 discharges through the reach of interest.

8

9 (d) Upon receipt of the written request from the
10 landowner under subsection (c) of this section, the state
11 engineer shall proceed within ten (10) business days with
12 an evaluation of the natural capacity of the channel and
13 shall complete this evaluation within one hundred twenty
14 (120) days.

15

16 (e) If the state engineer finds the capacity in the
17 reach of interest is less than the natural capacity of the
18 water course, the state engineer or superintendent of the
19 water division in which the reach of interest exists shall
20 order the necessary construction of additional capacity in
21 the reach of interest, up to the natural capacity of the
22 water course.

23

1 (f) In the event more than one (1) coalbed natural
2 gas operator is causing surface discharge in excess of the
3 capacity of the reach of interest, the order under
4 subsection (e) of this section shall be prorated. The
5 costs of construction resulting from the order shall be
6 prorated to each operator contributing to the excess of the
7 capacity of the reach of interest, based upon the
8 percentage of each operator's contribution to the total
9 excess surface discharge.

10

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

14

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

1

2 (j) If the landowner fails to provide written
3 approval of the final construction plans or fails to
4 provide written approval for access for planning,
5 construction or reclamation, the construction order shall
6 be revoked.

7

8 (k) The state engineer is authorized to assess
9 damages related to construction against the discharging
10 party or parties, in addition to those covered by the
11 construction plan, upon receipt, review and approval of
12 documentation submitted by the landowner or any party
13 included in the order.

14

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

19

20 (n) The state engineer shall adopt reasonable rules
21 and regulations necessary for the implementation and
22 administration of this section.

23

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

7

8 (p) As used in this section and in W.S. 41-3-116:

9

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

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14 (ii) "Natural capacity" means the bank to bank
15 hydraulic carrying capacity, expressed in cubic feet of
16 water per second of time, of the primary naturally formed
17 channel through which runoff would typically flow, using
18 the predominant cross-sectional characteristics exhibited
19 by the channel in the vicinity of the reach of interest.
20 These channel cross-sections may be obtained upstream or
21 downstream of the reach of interest;

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23 (iii) "Reach of interest" means that section of
24 a water course with intermittent or ephemeral flow that is

1 alleged to have insufficient hydraulic capacity to convey
2 water when compared to the natural capacity of a channel;

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4 (iv) "Surface discharge" means surface discharge
5 from coalbed natural gas operations.

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

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9 **35-11-302. Administrator's authority to recommend**
10 **standards, rules, regulations or permits.**

11

12 (a) The administrator, after receiving public comment
13 and after consultation with the advisory board, shall
14 recommend to the director rules, regulations, standards and
15 permit systems to promote the purposes of this act. Such
16 rules, regulations, standards and permit systems shall
17 prescribe:

18

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

23

1 **Section 3.** This act is effective July 1, 2009.

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(END)