

## HOUSE BILL NO. HB0058

State Engineer list of approved flumes.

Sponsored by: Representative(s) Sommers and Senator(s)  
Hicks

A BILL

for

1 AN ACT relating to water; requiring the development and  
2 maintenance of a list of approved infrastructure for  
3 ditches, canals, reservoirs and streams as specified;  
4 amending requirements and procedures for constructing and  
5 maintaining flumes and measuring devices; specifying an  
6 appeal process; and providing for an effective date.

7

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

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10 **Section 1.** W.S. 9-1-902(a)(vi) and by creating a new  
11 paragraph (viii) and 41-3-613 are amended to read:

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13 **9-1-902. Duties and powers; representation of state**  
14 **at proceedings relating to water or water use.**

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1 (a) The state engineer shall:

2

3 (vi) Suggest to the governor the amendment or  
4 enactment of laws to benefit the state; ~~and~~

5

6 (viii) Promulgate rules to develop, maintain and  
7 publish a list of appropriate flumes, measuring devices and  
8 methods used in the United States for use under W.S.  
9 41-3-613. The list shall be reviewed annually and updated  
10 as new technology and methodologies develop.

11

12 **41-3-613. Headgates, flumes or measuring devices;**  
13 **owners to construct and maintain; failure to comply;**  
14 **appeals from decisions.**

15

16 (a) The owner or owners of any ditch or canal shall  
17 maintain, to the satisfaction of the division  
18 superintendent of the division in which the irrigation  
19 works are located, a substantial headgate at the point  
20 where the water is diverted, which shall be of such  
21 construction that it can be locked and kept closed by the  
22 water commissioner; and such owners shall construct and  
23 maintain, when required by the division superintendent,

1 flumes or other measuring devices at such points along such  
2 ditch as may be necessary for the purpose of assisting the  
3 water commissioner in determining the amount of water that  
4 is to be diverted into said ditch from the stream, or taken  
5 from it by the various users. Any and every owner or  
6 manager of a reservoir, located across or upon the bed of a  
7 natural stream, shall be required to construct and  
8 maintain, when required by the ~~division superintendent~~  
9 state engineer, a flume or measuring device of a plan to be  
10 approved by the state engineer, below such reservoir at a  
11 point not to exceed six hundred (600) feet distant  
12 therefrom, and a flume or measuring device above such  
13 reservoir or each and every stream or source of supply  
14 discharging into such reservoir, for the purpose of  
15 assisting the water commissioner or superintendent in  
16 determining the amount of water to which prior  
17 appropriators are entitled and thereafter diverting it for  
18 such prior appropriators' use. When it may be necessary,  
19 for the protection of other water users, the division  
20 superintendent has authority to require flumes or other  
21 measuring devices to be installed along the line of any  
22 ditch. If any such owner or owners of irrigation works  
23 shall refuse or neglect to construct and put in such

1 headgates, flumes or measuring devices after ten (10) days  
2 notice to do so by division superintendent, it shall be the  
3 duty of the water commissioner of the district in which  
4 such headgate is located, on order of the division  
5 superintendent, to close such ditch to the passage of  
6 water, and the same shall not be opened or any water  
7 diverted from the source of supply, under the penalties  
8 prescribed by W.S. 41-3-614, until the requirements of the  
9 division superintendent as to such headgate, flumes or  
10 measuring device have been complied with. ~~and~~ If any  
11 owner, or manager of a reservoir located across the bed of  
12 a natural stream shall neglect or refuse to put in such  
13 measuring device after ~~ten (10)~~ thirty (30) days notice to  
14 do so by the ~~division superintendent~~ state engineer, the  
15 water commissioner shall open the sluice gate or outlet of  
16 such reservoir and the same shall not be closed under  
17 penalties pursuant to W.S. 41-3-614, until the requirements  
18 of the ~~division superintendent~~ state engineer as to such  
19 measuring devices are complied with. Any flume or measuring  
20 device required under this section shall be from the list  
21 promulgated pursuant to W.S. 9-1-902(a)(viii).

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1       (b) The owner or owners of any ditch or canal and the  
2 owner or manager of any reservoir shall be allowed to  
3 choose from the list of flumes or measuring devices  
4 published pursuant to W.S. 9-1-902(a)(viii), provided:

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6       (i) The division superintendent may reject the  
7 choice of the owner or owners of any ditch or canal and  
8 shall submit in writing to the owner or owners a  
9 justification of his decision to deny the chosen flume or  
10 measuring device;

11  
12       (ii) The state engineer may reject the choice of  
13 the owner or manager of any reservoir and shall submit in  
14 writing to the owner or manager of any reservoir a  
15 justification of his decision to deny the chosen flume or  
16 measuring device;

17  
18       (iii) The division superintendent and the state  
19 engineer shall consider the least cost options and not  
20 require a more exacting flume or measuring device than  
21 those used by the board of control in fulfilling its own  
22 duties.

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1       (c) The decision of the division superintendent in  
2 rejecting a canal or ditch owner's or owners' choice of  
3 flume or measuring device may be appealed to the state  
4 engineer. The decision of the state engineer to affirm the  
5 decision of the division superintendent or a decision by  
6 the state engineer to reject the reservoir owners' or  
7 managers' choice of flume or measuring device may be  
8 appealed to the district court of the county where the  
9 flume or measuring device is required to be installed.

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11       **Section 2.** This act is effective July 1, 2020.

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(END)