

SENATE FILE NO. SF0086

Greenhouse gas air quality regulation.

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

A BILL

for

1 AN ACT relating to public health and safety; providing for  
2 the promulgation and adoption of greenhouse gas regulations  
3 by the department of environmental quality and the  
4 environmental quality council; limiting regulations as  
5 specified; providing for a delayed effective date for the  
6 regulations as specified; providing conditions under which  
7 the state shall obtain and maintain primacy over greenhouse  
8 gas regulation; providing conditions under which the  
9 department may submit an amended state implementation plan  
10 for United States environmental protection agency approval;  
11 providing for a contingent repeal of the authority granted;  
12 and providing for an effective date.

13

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

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1           **Section 1.** W.S. 35-11-213 by creating new subsections  
2 (e) through (m) is amended to read:

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4           **35-11-213. Restrictions on state regulations related**  
5 **to greenhouse gas emissions.**

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7           (e) Notwithstanding the provisions of subsections (a)  
8 through (d) of this section and pursuant to the provisions  
9 of subsections (e) through (k) of this section, the  
10 department and council shall adopt regulations to amend  
11 Wyoming's Clean Air Act state implementation plan and  
12 Wyoming's Title V operating permit program to the extent  
13 necessary to obtain state primacy over the regulation of  
14 greenhouse gases for those sources that would otherwise be  
15 subject to federal regulation for greenhouse gases by the  
16 United States environmental protection agency. Pursuant to  
17 the provisions of W.S. 16-3-104(b)(i), the regulations  
18 promulgated and adopted pursuant to the authority granted  
19 in this subsection shall be effective on the date the  
20 department receives authority to submit an amended state  
21 implementation plan to the United States environmental  
22 protection agency as provided by subsection (h) of this  
23 section.

24

1       (f) In no event shall any greenhouse gas emission  
2 regulations or potential to emit thresholds promulgated  
3 pursuant to subsection (e) of this section be more  
4 stringent than those imposed or required by federal law.  
5 Regulations under subsection (e) of this section shall only  
6 regulate those gases identified by the United States  
7 environmental protection agency as greenhouse gases.

8  
9       (g) Notwithstanding W.S. 35-11-203(a), the department  
10 and the council are authorized to determine by regulation  
11 potential to emit thresholds for greenhouse gas emissions  
12 which are no more stringent than those imposed or required  
13 by federal law.

14  
15       (h) The department may submit an amended state  
16 implementation plan providing for regulation of greenhouse  
17 gases to the United States environmental protection agency  
18 for approval only after the occurrence of the earlier of  
19 the following events:

20  
21       (i) The legislature enacts legislation apart  
22 from this section authorizing the department to submit an  
23 amended state implementation plan providing for the

1 regulation of greenhouse gases to the United States  
2 environmental protection agency for approval; or

3  
4 (ii) A federal court issues a final judgment on  
5 the merits of Wyoming's pending claims in *Utility Air*  
6 *Regulatory Group v. EPA*, docket no. 11-1037 (D.C. Cir.).

7  
8 (j) Subsections (e) through (k) of this section and  
9 the authority granted in subsection (e) of this section to  
10 the department and the council to promulgate and adopt  
11 greenhouse gas regulations and all regulations adopted  
12 pursuant to subsection (e) of this section are repealed  
13 upon the occurrence of any one (1) of the following events:

14  
15 (i) The United States congress enacts a law  
16 prohibiting the United States environmental protection  
17 agency from regulating greenhouse gases; or

18  
19 (ii) A federal court issues a final judgment  
20 prohibiting the United States environmental protection  
21 agency from regulating greenhouse gas emissions from  
22 stationary sources.

23

1       (k) As used in this section, the term "final  
2 judgment" means a judgment issued by a federal court that  
3 is no longer subject to potential or ongoing appeal to any  
4 federal court with jurisdiction over the court judgment.

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6       (m) The governor shall certify to the secretary of  
7 state the occurrence of any act which:

8  
9           (i) Authorizes the department to submit an  
10 amended state implementation plan to the United States  
11 environmental protection agency thereby rendering  
12 regulations adopted pursuant to this section effective.  
13 The certification shall identify the date the department  
14 was authorized to submit an amended state implementation  
15 plan; or

16  
17           (ii) Repeals subsections (e) through (k) of this  
18 section pursuant to subsection (j) of this section. The  
19 effective date of such repeal of subsections (e) through  
20 (k) of this section shall be the date the governor's  
21 certification is filed with the secretary of state.

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1           **Section 2.**    This act is effective immediately upon  
2 completion of all acts necessary for a bill to become law  
3 as provided by Article 4, Section 8 of the Wyoming  
4 Constitution.

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(END)