

# Senate Bill No. 496

(By Senators Beach, D. Facemire, Kirkendoll and Miller)

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[Introduced February 2, 2012; referred to the  
Committee on Energy, Industry and Mining; and then to  
the Committee on the Judiciary.]

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A BILL to amend and reenact §22-5-19 of the Code of West Virginia, 1931, as amended, relating to the Department of Environmental Protection's requirements to inventory emissions of greenhouse gases; eliminating unneeded provisions; and allowing reporting of greenhouse gases under the United States Environmental Protection Agency's Mandatory Reporting of Greenhouse Gases Rule to satisfy greenhouse gas reporting requirements in West Virginia.

*Be it enacted by the Legislature of West Virginia:*

That §22-5-19 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

## **ARTICLE 5. AIR POLLUTION CONTROL.**

### **§22-5-19. Inventory of greenhouse gases.**

- 1       ~~(a) The secretary is authorized to propose legislative~~
- 2       ~~rules for promulgation in accordance with article three,~~

~~3 chapter twenty-nine-a of this code, establishing a net  
4 greenhouse gas inventory to determine whether West  
5 Virginia is a net sink or emitter of greenhouse gas and  
6 whether greenhouse gas can be developed as an asset for  
7 economic development by establishing an inventory using  
8 reasonable estimates of current and future greenhouse gas  
9 emissions. The inventory shall include all significant emis-  
10 sions, reductions, capture and sequestration of greenhouse  
11 gases from stationary, area and mobile sources, such as  
12 power plants, waste combustors, natural gas/oil systems,  
13 landfills, and waste water treatment facilities, highway and  
14 nonroad sources, agricultural sources and shall consider  
15 direct (geologic) and indirect (terrestrial) carbon sequestra-  
16 tion. Stationary sources are not required to but may submit  
17 to the secretary estimates of carbon sequestration activities.~~

~~18 (b) To inventory greenhouse gas emissions, (a) The  
19 secretary shall establish a program for the reporting and,  
20 where information already exists or is reported to the  
21 department or other state or federal agency, the collection of  
22 to inventory greenhouse gas emissions information from all  
23 major sources that emit greater than a *de minimis* amount of  
24 greenhouse gases on an annual basis. *De minimis* shall mean  
25 emissions from an individual facility that are equal to or less  
26 than ten thousand tons per year for carbon dioxide, four  
27 hundred seventy-six tons per year for methane, thirty-two  
28 and six tenths tons per year for nitrous oxide, eight hundred~~

29 ~~fifty-five thousandths tons per year for hydrofluorocarbons,~~  
30 ~~one and nine hundredths tons per year for perfluorocarbons~~  
31 ~~and forty-two hundredths tons per year for sulfur~~  
32 ~~hexafluoride. Stationary sources shall only be required to~~  
33 ~~report the annual quantities of nonmobile source,~~  
34 ~~anthropogenic emissions of greenhouse gases, and shall not~~  
35 ~~be required to report naturally occurring emissions of~~  
36 ~~greenhouse gases. Only those stationary sources who are~~  
37 ~~otherwise required to report emissions of regulated air~~  
38 ~~pollutants under rules promulgated by the secretary pursu-~~  
39 ~~ant to section four of this article, shall be required to report~~  
40 ~~their greenhouse gas emissions under this section. Stationary~~  
41 ~~sources which are not required to report air emissions under~~  
42 ~~this section and are regulated by the secretary under the~~  
43 ~~provisions of article three, chapter twenty-two of this code~~  
44 ~~are not required to, but may voluntarily, report such emis-~~  
45 ~~sions. The reporting entities will be permitted to provide~~  
46 ~~existing and ongoing documented inventories, such as those~~  
47 ~~provided to the Environmental Protection Agency's Climate~~  
48 ~~Leaders Program, Chicago Climate Exchange Registry, the~~  
49 ~~International Organization for Standardization, the SF6~~  
50 ~~Emissions Reduction Partnership for Electric Power Systems~~  
51 ~~or other widely recognized and verified greenhouse gas~~  
52 ~~inventory programs to completely fulfill their West Virginia~~  
53 ~~program reporting requirements.~~

54 (c) ~~The secretary shall establish a voluntary program~~

~~55 under which the department registers voluntary reductions~~  
~~56 in emissions of greenhouse gases for reductions made before~~  
~~57 mandated by law. The voluntary program shall include, but~~  
~~58 not be limited to, developing criteria for establishing~~  
~~59 baseline emissions, quantifying emission reductions and~~  
~~60 providing public recognition. The department shall consider~~  
~~61 the information recorded in the voluntary emission reduction~~  
~~62 registry when determining baselines and reduction require-~~  
~~63 ments under future emission reduction programs imple-~~  
~~64 mented under federal law.~~

65 (d) To inventory greenhouse gas reductions, the secretary  
66 shall consult and coordinate with other state agencies and  
67 higher education institutions, the citizenry and other entities  
68 such as industry trade groups that have knowledge or  
69 information relating to greenhouse gas emissions, measure-  
70 ment protocols, greenhouse gas reductions and sequestration  
71 including, but not limited to, the Department of Agriculture,  
72 the Division of Forestry, Marshall University, West Virginia  
73 University and the Department of Transportation. These  
74 governmental entities shall enter into interagency agree-  
75 ments with the secretary and shall cooperate by: (i) Provid-  
76 ing information relating to greenhouse gas emissions,  
77 reductions and sequestration; and (ii) providing any neces-

78 sary assistance to the secretary in effectuating the purposes  
79 of this article. The secretary shall determine the form and  
80 format of the information submitted by these entities.

81 ~~(e) In establishing the net greenhouse gas inventory~~  
82 ~~program, the department shall make the program as consis-~~  
83 ~~tent as possible with other state and federal programs~~  
84 ~~designed to monitor, quantify and register reductions in~~  
85 ~~emissions of greenhouse gases as referenced in subsection (b)~~  
86 ~~of this section. are subject to mandatory federal greenhouse~~  
87 ~~gases reporting requirements. Before imposing additional~~  
88 ~~greenhouse gas reporting requirements on these sources the~~  
89 ~~secretary shall obtain available emissions data directly from~~  
90 ~~the appropriate federal entity, including the United~~  
91 ~~States Environmental Protection Agency.~~

92 ~~(f)~~ (b) As used in this section, “greenhouse gas” means  
93 carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,  
94 perfluorocarbons and sulfur hexafluoride.

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(NOTE: The purpose of this bill is to modify the Department of Environmental Protection’s requirements to inventory emissions of greenhouse gases and eliminate unneeded provisions. It allows reporting of greenhouse gases under the United States Environmental Protection Agency’s Mandatory Reporting of Greenhouse Gases Rule to satisfy greenhouse gas reporting requirements in West Virginia.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)