

# STATE OF NEW YORK

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6214

2017-2018 Regular Sessions

## IN ASSEMBLY

February 27, 2017

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Introduced by M. of A. MOYA -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, the public authorities law, and the environmental conservation law, in relation to biomass-fired electric generating facilities subject to the regional greenhouse gas initiative and the CO2 budget trading program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative intent. The legislature hereby finds and  
2 declares that it is in the economic and environmental interests of the  
3 citizens of the state of New York to support and encourage renewable  
4 energy generation through the conversion of coal-fired electric generat-  
5 ing facilities to biomass-fired facilities. The combustion of biomass  
6 offers a sustainable and manageable carbon lifecycle since the materials  
7 included in biomass generally absorb atmospheric carbon during their  
8 lifecycle and then return it to the atmosphere during combustion. This  
9 process mimics the natural lifecycle of plant life that can fall to the  
10 forest floor, decompose and return its carbon to the atmosphere.

11 The legislature further finds and declares that biomass production  
12 facilities support and sustain jobs, particularly in upstate New York,  
13 where more than four thousand people are employed directly or indirectly  
14 by the industry. In fact, many of the largest and most successful biom-  
15 ass facilities are located in parts of New York state that have high  
16 unemployment and are in desperate need of economic development. New York  
17 state also possesses an abundance of biomass fuel due to the large  
18 amount of untapped forest and agricultural land where biomass fuel can  
19 be collected. Biomass is the equivalent of solar energy stored in organ-  
20 ic matter and is environmentally friendly while costing around one third  
21 of the cost of fossil fuels.

22 As such, to the extent that operators of electric generating facili-  
23 ties in New York state are willing to convert formerly coal-fired facil-  
24 ities (boilers, combustion turbines, or combined cycle systems) to  
25 instead be fueled by biomass, state policy should encourage and support  
26 such conversions rather than discourage them. While new biomass-fired

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 electric generating facilities are not required to acquire CO2 allow-  
2 ances under the regulations implementing the Regional Greenhouse Gas  
3 Initiative (RGGI) in New York state, former coal-fired facilities that  
4 convert to combusting biomass are still subject to RGGI's requirements  
5 under existing regulations, which effectively discourages such conver-  
6 sions. To remedy this situation, and consistent with the intent of RGGI  
7 to encourage more renewable energy generation, the legislature declares  
8 that formerly coal-fired electric generating facilities that convert to  
9 primarily biomass-fired facilities shall be treated in the same manner  
10 as a new biomass facility under the RGGI regulations.

11 § 2. The public service law is amended by adding a new section 73 to  
12 read as follows:

13 § 73. Cooperation with the New York state energy research and develop-  
14 ment authority and the department of environmental conservation. The  
15 department shall cooperate with the New York state energy research and  
16 development authority and the department of environmental conservation  
17 in the implementation of subdivision four of section 19-0312 of the  
18 environmental conservation law relating to electric generating facili-  
19 ties that are subject to the CO2 budget trading program (6 NYCRR Part  
20 242) established by the department of environmental conservation in  
21 connection with the regional greenhouse gas initiative.

22 § 3. Section 1854 of the public authorities law is amended by adding a  
23 new subdivision 22 to read as follows:

24 22. Cooperation with the department of environmental conservation and  
25 the department of public service. The authority shall cooperate with the  
26 department of environmental conservation and the department of public  
27 service in the implementation of subdivision four of section 19-0312 of  
28 the environmental conservation law relating to electric generating  
29 facilities that are subject to the CO2 budget trading program (6 NYCRR  
30 Part 242) established by the department of environmental conservation in  
31 connection with the regional greenhouse gas initiative.

32 § 4. Section 19-0312 of the environmental conservation law is amended  
33 by adding a new subdivision 4 to read as follows:

34 4. Notwithstanding any law, rule, regulation or policy to the contra-  
35 ry, an electric generating facility including any boiler, combustion  
36 turbine or combination cycle system, that a. was formerly fossil fuel-  
37 fired due to the use of coal as its primary fuel,

38 b. is no longer authorized to combust coal under its air title V  
39 facility permit issued by the department pursuant to 6 NYCRR subpart  
40 201-6,

41 c. uses eligible biomass for more than fifty percent of its annual  
42 heat input, and

43 d. uses fossil fuel for less than five percent of its annual heat  
44 input, shall not be defined as fossil fuel-fired under the CO2 budget  
45 trading program (6 NYCRR Part 242). For the purposes of this subdivi-  
46 sion:

47 "Boiler", "combustion turbine", "combined cycle system", "eligible  
48 biomass" and "fossil fuel" shall have the same meanings as ascribed to  
49 such terms in 6 NYCRR § 242-1.2.

50 § 5. This act shall take effect on the ninetieth day after it shall  
51 have become a law and shall apply to all control periods commencing on  
52 or after January 1, 2012; provided however, that effective immediately  
53 the department of environmental conservation is authorized and directed  
54 to amend, revise and/or repeal any rule, regulation or policy necessary  
55 for the implementation of this act on or before such effective date.