STATE OF NEW YORK

4192

2019-2020 Regular Sessions

IN SENATE

March 4, 2019

Introduced by Sen. RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT in relation to enacting the "biomass fired exception program" addressing the applicability of a CO2 budget trading program to biomass-fired electric generating facilities that have converted from coal-fired generation

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

Section 1. Short title. This act shall be known and may be cited as the "biomass fired exception program".

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

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

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

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As such, to the extent that operators of electric generating facilities in New York state are willing to convert formerly coal-fired facilities (boilers, combustion turbines, or combined cycle systems) to instead be fueled by biomass, state policy should encourage and support such conversions rather than discourage them. While new biomass-fired electric generating facilities are not required to acquire CO2 allowances under the regulations implementing the Regional Greenhouse Gas Initiative (RGGI) in New York state, former coal-fired facilities that convert to combusting biomass are still subject to RGGI's requirements under existing regulations, which effectively discourages such conversions. To remedy this situation, and consistent with the intent of RGGI to encourage more renewable energy generation, the legislature declares that formerly coal-fired electric generating facilities that convert to primarily biomass-fired facilities shall be treated in the same manner as a new biomass facility under the RGGI regulations.

§ 3. Definitions. For the purposes of this act "boiler", "combustion turbine", "combined cycle system", "eligible biomass" and "fossil fuel" shall have the same meanings as defined in 6 NYCRR Part 242-1.2.

§ 4. The commissioner of environmental conservation shall promulgate rules and regulations necessary to regard formerly coal-fired electric generating facilities that convert to primarily biomass-fired facilities in the same manner as a new biomass facility under the regional greenhouse gas initiative regulations. Such rules and regulations shall also provide that an electric generating facility, including any boiler, combustion turbine or combination cycle steam turbine, that meets the following conditions shall not be defined as fossil fuel-fired under the CO2 budget trading program (6 NYCRR Part 242):

(a) was formerly fossil fuel-fired due to the use of coal as its primary fuel,

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

(c) uses eligible biomass comprising not less than 75 percent of its annual fuel purchases, as measured by weight,

(d) uses fossil fuel for less than 5 percent of its annual heat input, and

(e) is located within a military installation.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to all control periods commencing with the control period that ended on December 31, 2018; provided however, that effective immediately the department of environmental conservation is authorized and directed to amend, revise and/or repeal any rule, regulation or policy necessary for the implementation of this act on or before such effective date.