

# STATE OF NEW YORK

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4192

2019-2020 Regular Sessions

## IN SENATE

March 4, 2019

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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:

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

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

13 The legislature further finds and declares that biomass production  
14 facilities support and sustain jobs, particularly in upstate New York,  
15 where more than four thousand people are employed directly or indirectly  
16 by the industry. In fact, many of the largest and most successful biomass  
17 facilities are located in parts of New York state that have high  
18 unemployment and are in desperate need of economic development. New York  
19 state also possesses an abundance of biomass fuel due to the large  
20 amount of untapped forest and agricultural land where biomass fuel can  
21 be collected. Biomass is the equivalent of solar energy stored in organic  
22 matter and is environmentally friendly while costing around one third  
23 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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1 As such, to the extent that operators of electric generating facili-  
2 ties in New York state are willing to convert formerly coal-fired facil-  
3 ities (boilers, combustion turbines, or combined cycle systems) to  
4 instead be fueled by biomass, state policy should encourage and support  
5 such conversions rather than discourage them. While new biomass-fired  
6 electric generating facilities are not required to acquire CO2 allow-  
7 ances under the regulations implementing the Regional Greenhouse Gas  
8 Initiative (RGGI) in New York state, former coal-fired facilities that  
9 convert to combusting biomass are still subject to RGGI's requirements  
10 under existing regulations, which effectively discourages such conver-  
11 sions. To remedy this situation, and consistent with the intent of RGGI  
12 to encourage more renewable energy generation, the legislature declares  
13 that formerly coal-fired electric generating facilities that convert to  
14 primarily biomass-fired facilities shall be treated in the same manner  
15 as a new biomass facility under the RGGI regulations.

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

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

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

30 (b) is no longer authorized to combust coal under its air title V  
31 facility permit issued by the department pursuant to 6 NYCRR subpart  
32 201-6,

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

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

37 (e) is located within a military installation.

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