



Substitute Senate Bill No. 212

Public Act No. 06-74

AN ACT CONCERNING BIOMASS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subdivision (26) of subsection (a) of section 16-1 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(26) "Class I renewable energy source" means (A) energy derived from solar power, wind power, a fuel cell, methane gas from landfills, ocean thermal power, wave or tidal power, low emission advanced renewable energy conversion technologies, a run-of-the-river hydropower facility provided such facility has a generating capacity of not more than five megawatts, does not cause an appreciable change in the river flow, and began operation after July 1, 2003, or a sustainable biomass facility [, including, but not limited to, a biomass gasification plant that utilizes land clearing debris, tree stumps or other biomass that regenerates or the use of which will not result in a depletion of resources, provided such biomass is cultivated and harvested in a sustainable manner and the] with an average emission rate [for such facility is] of equal to or less than .075 pounds of nitrogen oxides per million BTU of heat input for the previous calendar quarter, except that energy derived from a sustainable biomass facility with a capacity of less than five hundred kilowatts that began construction before July

Substitute Senate Bill No. 212

1, 2003, may be considered a Class I renewable energy source, [provided such biomass is cultivated and harvested in a sustainable manner,] or (B) any electrical generation, including distributed generation, generated from a Class I renewable energy source.

Sec. 2. Subsection (a) of section 16-1 of the 2006 supplement to the general statutes is amended by adding subdivision (45) as follows (*Effective October 1, 2006*):

(NEW) (45) "Sustainable biomass" means biomass that is cultivated and harvested in a sustainable manner. "Sustainable biomass" does not mean construction and demolition waste, as defined in section 22a-208x, as amended by this act, finished biomass products from sawmills, paper mills or stud mills, organic refuse fuel derived separately from municipal solid waste, or biomass from old growth timber stands, except where (A) such biomass is used in a biomass gasification plant that received funding prior to May 1, 2006, from the Renewable Energy Investment Fund established pursuant to section 16-245n of the 2006 supplement to the general statutes, or (B) the energy derived from such biomass is subject to a long-term power purchase contract pursuant to subdivision (2) of subsection (j) of section 16-244c of the 2006 supplement to the general statutes entered into prior to May 1, 2006, or (C) prior to July 1, 2007, such biomass is used in a renewable energy facility that was approved by the department prior to October 1, 2005.

Sec. 3. Section 16-245a of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) [(1) On and after January 1, 2004, an electric supplier and an electric distribution company providing transitional standard offer pursuant to section 16-244c shall demonstrate to the satisfaction of the Department of Public Utility Control that not less than one per cent of

Substitute Senate Bill No. 212

the total output or services of such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources. On and after January 1, 2005, not less than one and one-half per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources.] On and after January 1, 2006, an electric supplier and an electric distribution company providing standard service or supplier of last resort service, pursuant to section 16-244c, as amended, shall demonstrate that not less than two per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources. On and after January 1, 2007, not less than three and one-half per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources. On and after January 1 2008, not less than five per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources. On and after January 1, 2009, not less than six per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources. On and after January 1, 2010, not less than seven per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total

Substitute Senate Bill No. 212

output or services shall be from Class I or Class II renewable energy sources.

[(2)] (b) An electric supplier or electric distribution company may satisfy the requirements of [this subsection by (A)] this section (1) by purchasing [Class I or Class II renewable energy sources within the jurisdiction of the regional independent system operator, or* within the jurisdiction of New York, Pennsylvania, New Jersey, Maryland, and Delaware, provided the department determines such states have a renewable portfolio standard that is comparable to this section] certificates issued by the New England Power Pool Generation Information System, provided the certificates are for (A) energy produced by a generating unit using Class I or Class II renewable energy sources and the generating unit is located in the jurisdiction of the regional independent system operator or (B) energy imported into the control area of the regional independent system operator pursuant to New England Power Pool Generation Information System Rule 2.7(c), as in effect on January 1, 2006; or [(B)] (2) for those renewable energy certificates under contract to serve end-use customers in the state on or before October 1, 2006, by participating in a renewable energy trading program within said jurisdictions as approved by the Department of Public Utility Control.

[(3)] (c) Any supplier who provides electric generation services solely from a Class II renewable energy source shall not be required to comply with the provisions of this section.

[(b)] (d) An electric supplier or an electric distribution company shall base its demonstration of generation sources, as required under subsection (a) of this section on historical data, which may consist of data filed with the regional independent system operator.

[(c)] (e) (1) A supplier or an electric distribution company may make up any deficiency within its renewable energy portfolio within the first

Substitute Senate Bill No. 212

three months of the succeeding calendar year or as otherwise provided by generation information system operating rules approved by New England Power Pool or its successor to meet the generation source requirements of subsection (a) of this section for the previous year.

(2) No such supplier or electric distribution company shall receive credit for the current calendar year for generation from Class I or Class II renewable energy sources pursuant to this section where such supplier or distribution company receives credit for the preceding calendar year pursuant to subdivision (1) of this subsection.

[(d)] (f) The department shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section.

Sec. 4. Section 22a-208x of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) As used in this section and section 22a-208y, (1) "construction and demolition waste" means waste building materials and packaging resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings and other structures, excluding asbestos, clean fill, as defined in regulations adopted under section 22a-209, or solid waste containing greater than de minimis quantities, as determined by the Commissioner of Environmental Protection, of (A) radioactive material regulated pursuant to section 22a-148, (B) hazardous waste as defined in section 22a-115, and (C) liquid and semiliquid materials, including, but not limited to, adhesives, paints, coatings, sealants, preservatives, strippers, cleaning agents, oils and tars; and (2) "processed construction and demolition wood" means the wood portion of construction and demolition waste which has been sorted to remove plastics, plaster, gypsum wallboard, asbestos, asphalt shingles, regulated wood fuel as defined in section 22a-209a and wood which contains creosote or to which pesticides

Substitute Senate Bill No. 212

have been applied or which contains substances defined as hazardous waste under section 22a-115.

(b) Construction and demolition waste which does not constitute processed construction and demolition wood may be disposed of at (1) any solid waste disposal area for which a permit has been issued for the disposal of bulky waste, or (2) a municipal solid waste landfill. Processed construction and demolition wood may be disposed of at a biomass gasification plant that qualifies as a Class I renewable energy source, as defined in section 16-1 of the 2006 supplement to the general statutes, a resources recovery facility in accordance with section 22a-208y or at a permitted municipal solid waste landfill or any solid waste disposal area for which a permit has been issued for the disposal of bulky waste.

(c) Construction or demolition wood generated at a residence, other than wood that has been pressure-treated or that otherwise contains arsenic, furniture, mattresses and rugs or any such waste which has been crushed, chopped, shredded or otherwise processed shall be considered municipal solid waste and may be disposed of at any solid waste disposal area for which a solid waste permit has been issued for the disposal of bulky waste, [or at] a biomass gasification plant that qualifies as a Class I renewable energy source, as defined in section 16-1 of the 2006 supplement to the general statutes, a resources recovery facility or a municipal solid waste landfill.

Sec. 5. Section 22a-209a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) As used in this section:

(1) "Recycled wood" means any wood or wood fuel which is derived from such products or processes as pallets, skids, spools, packaging materials, bulky wood waste or scraps from newly built wood

Substitute Senate Bill No. 212

products, provided such wood is not treated wood;

(2) "Treated wood" means wood which contains an adhesive, paint, stain, fire retardant, pesticide or preservative;

(3) "Processed wood" means recycled wood or treated wood or any combination thereof which has been processed at a volume reduction facility permitted under this chapter;

(4) "Regulated wood fuel" means processed wood from construction and demolition activities which has been sorted to remove plastics, plaster, gypsum wallboard, asbestos, asphalt shingles and wood which contains creosote or to which pesticides have been applied or which contains substances defined as hazardous under section 22a-115;

(5) "Combustible" means the heat-producing constituents of a fuel;

(6) "Combustion" means the rapid chemical combination of oxygen with the combustible element of a fuel resulting in the production of heat;

(7) "Fuel" means a substance containing combustibles used for producing heat, light, power or energy;

(8) "Regulated wood fuel merchant" means any person who offers for sale or sells, transfers, or provides in retail or wholesale trade, regulated wood fuel, including agents, brokers, wholesalers, distributors or producers who sell regulated fuel;

(9) "Regulated wood fuel user" means a biomass gasification plant or a resources recovery facility, as defined in section 22a-207, that stores or utilizes regulated wood fuel for the purpose of creating by combustion heat, light, power or energy and combusts in excess of one hundred million BTUs per hour; and

(10) "Biomass gasification plant" means a biomass gasification plant

Substitute Senate Bill No. 212

that qualifies as a Class I renewable energy source, as defined in section 16-1 of the 2006 supplement to the general statutes.

(b) Notwithstanding the provisions of this chapter, processed wood is not a solid waste provided: (1) Such wood is received for use at a biomass gasification plant or a resource recovery facility as a regulated wood fuel; (2) such wood is used for land application in accordance with standards for such use adopted by the Commissioner of Environmental Protection in accordance with chapter 54; or (3) such wood is used for building products or other uses in accordance with any applicable state or federal standards.

(c) No person other than a regulated wood fuel user shall use or burn regulated wood fuel. No regulated wood fuel user shall use or burn (1) regulated wood fuel which contains nonwood material, other than dirt or metal fasteners, unless such material comprises less than one per cent, by dry weight, of such regulated wood fuel or (2) any such fuel which contains more than fifteen one-hundredths of one per cent, by dry weight, total chlorine. Any sampling or analysis to determine the percentage of total chlorine or the amount of nonwood material shall be provided for by the regulated wood fuel merchant and shall be certified by such merchant as having met any standards or methodologies for such sampling or analysis approved or required by the commissioner. Notwithstanding any other provisions of this section, any person who exclusively burns wood, other than regulated wood fuel, as a fuel shall comply with the regulations adopted under section 22a-174 for stationary sources of air pollution.

(d) No regulated wood fuel merchant shall store, offer for sale, sell, make available, deliver for use or exchange in trade for use in this state (1) regulated wood fuel which contains nonwood material, other than dirt or metal fasteners, unless such material comprises less than one per cent, by dry weight, of such regulated wood fuel, or (2) any such fuel which contains more than fifteen one-hundredths of one per cent,

Substitute Senate Bill No. 212

by dry weight, total chlorine.

(e) Any person who sells regulated wood fuel for use in this state or who uses such fuel in this state shall maintain records of all sales or use of such fuel which contains nonwood materials and such records shall be made available for inspection by the commissioner, or his designee, during regular business hours. Such records shall be maintained for at least three years.

(f) Nothing in this section shall prohibit a biomass gasification plant or a resources recovery [facilities] facility from accepting, processing and combusting wood that is not hazardous waste or is not otherwise prohibited by law.

Approved May 30, 2006