



Legislation Details (With Text)

File #: 190636-A **Version:** 2 **Name:**

Type: Bill **Status:** ENACTED

File created: 9/12/2019 **In control:** Committee on the Environment

On agenda: **Final action:** 11/21/2019

Title: Amending Section 3-207 of The Philadelphia Code, entitled "Sale of Fuel Oil," to revise the standards for permissible grades and permissible sulfur content of commercial fuel oil, under certain terms and conditions.

Sponsors: Councilmember Reynolds Brown

Indexes: SALE OF FUEL OIL

Code sections:

Attachments: 1. Bill No. 190636-A02, As Amended on Floor.pdf, 2. CertifiedCopy190636-A02

Date	Ver.	Action By	Action	Result	Tally
12/4/2019	2	MAYOR	SIGNED		
11/21/2019	1	CITY COUNCIL			
11/14/2019	2	CITY COUNCIL			
11/14/2019	2	CITY COUNCIL			
11/14/2019	1	CITY COUNCIL			
10/3/2019	1	CITY COUNCIL			
10/3/2019	1	CITY COUNCIL			
10/3/2019	1	CITY COUNCIL			
10/2/2019	0	Committee on the Environment			
10/2/2019	0	Committee on the Environment			
10/2/2019	0	Committee on the Environment			
10/2/2019	1	Committee on the Environment			
9/12/2019	0	CITY COUNCIL			

Amending Section 3-207 of The Philadelphia Code, entitled "Sale of Fuel Oil," to revise the standards for permissible grades and permissible sulfur content of commercial fuel oil, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 3-207 of The Philadelphia Code is hereby amended to read as follows:

§ 3-207. Sale of Fuel Oil.

(1) Commercial Fuel Oil.

[(a) On and after the effective dates listed therein no fuel merchant shall store, offer for sale,

sell, deliver for use or exchange in trade, for use in Philadelphia, and no person shall use commercial fuel oils which contain sulfur in excess of the percentages by weight set forth in the following table:

PERCENT SULFUR BY WEIGHT

Grades of Commercial Fuel Oil	SSU Viscosity at 100 ⁰ F	Effective 04-01-78	Effective 07-01-15
No. 2 and lighter	Less than or equal to 45	0.2%	0.0015% (15 ppm)
No. 4	Greater than 45 but less than 145	0.3%	0.2500% (2500 ppm)
No. 5, No. 6, and heavier	Equal to or greater than 145	0.5%	0.5000% (5000 ppm)

(b) The provisions of (a) above shall not apply in any case in which it is demonstrated to the Department that sulfur dioxide emissions, caused by the combustion of commercial fuel oils, from any stack or chimney into the outdoor atmosphere, can be controlled to levels that, on and after the effective dates listed herein, do not exceed at any time those quantities of sulfur dioxide, expressed in pounds per one (1) million BTU gross heat input, set forth in the following table:

PERMISSIBLE SO2 EMISSIONS

(Pounds SO2 per Million BTU Gross Heat Input)

Grades of Commercial Fuel Oil	SSU Viscosity at 100 ⁰ F	Effective 04-01-78	Effective 07-01-15
No. 4	Greater than 45 but less than 145	0.30 lb	0.26 lb
No. 5, No. 6, and heavier	Equal to or greater than 145	0.52 lb	0.52 lb

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(a) No person may use or burn No. 2 or lighter grade of commercial fuel oil (SSU Viscosity at 100° F ≤ 45) containing sulfur by weight in excess of .0015% (15 ppm). No person, including any fuel merchant, may deliver, exchange in trade, or sell No. 2 or lighter grade of commercial fuel oil containing sulfur by weight in excess of .0015% (15 ppm) to be burned or used in Philadelphia.

(b) No person may use or burn No. 4 or heavier grade of commercial fuel oil (SSU Viscosity at 100° F >45). No person, including any fuel merchant, may deliver, exchange in trade, or sell No. 4 or heavier grade of commercial fuel oil to be burned or used in Philadelphia.

(c) Notwithstanding the requirements of subsections (a) and (b) above, No. 2 grade commercial fuel oil (SSU Viscosity at 100° F ≤ 45) that was stored by the ultimate consumer at its Facility prior to July 1, 2015, and that [met the applicable maximum allowable sulfur content for commercial fuel oil through June 30, 2015 at the time it was stored,] *has a sulfur content by weight not in excess of .2000% (2000 ppm);*

No. 4 grade commercial fuel oil (SSU Viscosity at 100° F >45, but <145) that was stored by the ultimate consumer at its Facility prior to April 1, 2020, and that has a sulfur content by weight not in excess of .2500% (2500 ppm); and No. 5 grade or heavier commercial fuel oil (SSU Viscosity at 100° F ≥ 145) that was stored by the ultimate consumer at its Facility prior to April 1, 2020, and that has a sulfur content by weight not in excess of .5000% (5000 ppm), may be used by the ultimate consumer at its [Facility on and after July 1, 2015,] Facility, provided that all of the following shall apply:

(1) Any such ultimate consumer demonstrates to the Department, by means of written records (including but not limited to documentation from fuel suppliers), that any *No. 2 grade commercial fuel oil* delivered to the Facility after April 1, 2015 met the sulfur content standard [effective July 1, 2015 under this Section 3-207,] *set forth at subsection (a), above, and that no No. 4 grade or heavier commercial fuel oil has been delivered to the Facility after March 31, 2020*, which records shall be maintained [until July 1, 2016, or until such time as the consumer no longer relies on the exemption in subsection 3-207(c) or (d), whichever is later;] *for as long as the user relies on this exemption;*

(2) Any such fuel oil may only be used at the Facility where such fuel oil was delivered and stored on or before June 30, 2015 (*for No. 2 grade commercial fuel oil*) or *March 31, 2020 (for No. 4 or heavier grade commercial fuel oil)*; and

(3) Any *such* fuel oil [that is not compliant with the standards for sulfur content imposed by this Section effective July 1, 2015] shall be consumed, brought into compliance, or otherwise eliminated from use no later than July 1, 2020 (*for No. 2 grade commercial fuel oil*) and *no later than July 1, 2024 (for No. 4 or heavier grade commercial fuel oil)*.

(d) *Notwithstanding subsections (b) and (c) above, any public utility, as defined by Section 102 of the Pennsylvania Public Utility Code, 66 Pa.C.S. §102, and certificated by the Pennsylvania Public Utility Commission pursuant to 66 Pa. C.S. § 1101, et seq., authorizing it to offer, render, furnish, or supply steam to or for the public for compensation, shall be permitted to take delivery to a Facility owned by such public utility (and a vendor shall be permitted to sell or deliver), for use only at a Facility owned by the same public utility, of No. 4 or heavier grade of commercial fuel oil (SSU viscosity at 100° F > 45) through December 31, 2022.*

[(d)](e)(1) Notwithstanding subsection (c)(3), *above*, the Department shall have the authority to extend the exemption *provided for* in subsection [3-207(c)] (c) on a case-by-case basis through December 31, 2025 (*for No. 2 grade commercial fuel oil*) and *through December 31, 2029 (for No. 4 or heavier grade commercial fuel oil)*, or such later time as the Department deems appropriate. The Department shall grant or deny an extension request within sixty (60) days and shall base any decision on such a request on the following factors:

[(a)] (A) The quantity and sulfur content of such fuel oil at the time of the request for the extension;

[(b)] (B) The quantity and sulfur content of such stored fuel as of July 1, 2015, unless the user demonstrates to the satisfaction of the department that the user could not reasonably obtain such information;

[(c) Confirmation that the user of such fuel oil has acquired for storage at its

Facility only fuels meeting the standards set forth in this Section 3-207 since July 1, 2015;]

- [(d)] (C) The expected impact to the public health and the environment of granting or denying the extension;
- [(e)] (D) The economic impact to the user of granting or denying the extension (excluding the incremental cost of new fuel meeting the standard set forth in this Section 3-207); and
- [(f)] (E) Such other information as may be relevant.

(.2) The Department's decision to deny an extension shall be reviewed in the same manner as any order, requirement, decision or determination rendered pursuant to the air pollution control program established pursuant to Section 3-401, including the denial or revocation of any license or permit.

(.3) In addition to its authority under subsection [3-207(1)(d)(.1),] *3-207(1)(e)(.1)*, the Department may establish by regulation standards for continued use of fuel oil subject to the exemption in subsection 3-207(1)(c) after June 30, 2015.

[(e)](f) The exemption in subsection 3-207(1)(c) shall not apply to fuel oil merchants or distributors.

[(f)](g) The reselling of fuel oil subject to the exemption in subsection 3-207(1)(c) *for use* in the City shall be prohibited.

(h) *Notwithstanding the requirements of subsection (b) above, No. 4 or heavier grade of commercial fuel oil (SSU Viscosity at 100° F >45) may be produced and stored in Philadelphia so long it is not burned or used in Philadelphia. The sale of No. 4 or heavier grade of commercial fuel oil (SSU Viscosity at 100° F >45) for use outside of Philadelphia is allowed.*

* * *

SECTION 2. This Ordinance shall be effective April 1, 2020.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.