

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2016**

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**No. 119**

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Introduced by Council Members Constantinides, Gibson, Kallos, Koo, Rose, Wills, Mendez, Rodriguez, Rosenthal, Johnson, Espinal, Levine, Koslowitz, Richards, Vacca, Williams, Garodnick, Dromm, Reynoso, Maisel, Crowley, Chin, Van Bramer, Levin, Torres, Menchaca, Palma, Lancman, Cohen, Barron, Cornegy, Ferreras-Copeland, Treyger, Lander and Vallone.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to the use of clean heating oil.**

*Be it enacted by the Council as follows:*

Section 1. Section 24-104 of the administrative code of the city of New York is amended by adding a new definition for “feedstock” in appropriate alphabetical order to read as follows:

*“Feedstock” means soybean oil, oil from annual covercrops, algal oil, biogenic waste oils, fats or greases, or non-food grade corn oil, provided that the commissioner may modify the definition of feedstock based on the vegetable oils, animal fats or cellulosic biomass listed in table 1 of section 80.1426 of title 40 of the code of federal regulations.*

§ 2. Subdivisions (a), (b) and (c) of section 24-168.1 of the administrative code of the city of New York, as amended by local law number 38 for the year 2015, are amended to read as follows:

(a) Definitions. For the purpose of this section, the following terms shall have the following meanings:

[“District steam system” shall mean] *District steam system. The term “district steam system” means a system for the production of steam and for its transmission and distribution through underground pipelines to multiple buildings.*

["Feedstock" shall mean soybean oil, oil from annual covercrops, algal oil, biogenic waste oils, fats or greases, or non-food grade corn oil, provided that the commissioner may modify the definition of feedstock based on the vegetable oils, animal fats or cellulosic biomass listed in table 1 of 40 C.F.R. § 80.1426.]

["Heating oil" shall mean] *Heating oil. The term "heating oil" means oil refined for the purpose of use as fuel for combustion in a heating system and that meets the specifications of ASTM designation D 396-12 or other specifications as determined by the commissioner.*

["Heating system" shall mean] *Heating system. The term "heating system" means a system that generates heat, hot air, hot water or steam by combustion and distributes it within a building, provided that "heating system" shall not include wood burning stoves.*

(b)(1) [After October 1, 2012, no] (i) *No person shall cause or permit the use in any building in the city or [deliver] delivery to any building in the city for use in such building, heating oil that is fuel oil grade no. 2 [or no. 4 or residual fuel] if such heating oil contains:*

*(A) less than two percent biodiesel by volume, after October 1, 2012;*

*(B) less than five percent biodiesel by volume, on and after October 1, 2017;*

*(C) less than ten percent biodiesel by volume, on and after the later of October 1, 2025;*

*(D) less than fifteen percent biodiesel by volume, on and after the later of October 1, 2030;*

*and*

*(E) less than twenty percent biodiesel by volume, on and after the later of October 1, 2034.*

(ii) *No person shall cause or permit the use in any building in the city or delivery to any building in the city for use in such building, heating oil that is fuel oil grade no. 4 if such heating oil contains:*

*(A) less than two percent biodiesel by volume, after October 1, 2012; and*

*(B) less than five percent biodiesel by volume, on and after October 1, 2017.*

*(iii) No person shall cause or permit the use in any building in the city or delivery to any building in the city for use in such building, heating oil that is residual fuel if such heating oil contains:*

*(A) less than two percent biodiesel by volume, after October 1, 2012; and*

*(B) less than five percent biodiesel by volume, on and after October 1, 2017.*

*(2) The provisions of this subdivision shall not apply to the use of heating oil or delivery of heating oil for use in [an]:*

*(i) An emergency generator [or for use in a];*

*(ii) A boiler where heating oil from a dual-use tank supplies both such boiler and an emergency generator; or*

*(iii) A backup heating oil tank for a building that uses natural gas as the primary fuel where such heating oil contains greater than five percent biodiesel by volume.*

*[(2)] (3) (i) No later than January 1, 2020, an office or agency designated by the mayor shall submit to the mayor and speaker of the council, and make publicly available online the results of a survey seeking to identify commonly used heating oil equipment in the city that may encounter compatibility issues, including warranty issues, with the use of heating oil containing ten to twenty percent biodiesel by volume and (A) recommending that such equipment be exempted permanently or temporarily from the requirements of clause (C), (D) or (E) of subparagraph (i) of paragraph one of this subdivision, (B) recommending a waiver system for such equipment with respect to the requirements of such clauses or (C) recommending other safeguards or actions for such equipment with respect to the requirements of such clauses. In making such identifications and recommendations, such office or agency shall consult with other relevant offices or agencies, representatives of the heating oil industry, representatives of the biodiesel industry, heating oil equipment manufacturers, building owners and managers and any other person or group with expertise that could assist such office or agency in making such identifications and recommendations. While the survey may identify certain heating oil equipment that may encounter*

*compatibility issues with the use of heating oil containing ten to twenty percent biodiesel by volume, the survey may not identify all heating oil equipment that may pose a risk of incompatibility. Compatibility issues should be addressed with individual manufacturers and the absence of heating oil equipment from the survey should not be construed to mean that the heating oil equipment does not have compatibility issues. The survey is intended to provide guidance to property owners about compatibility issues with commonly used heating oil equipment in the city, if any, and to provide recommendations to the commissioner concerning such issues.*

*(ii) No later than July 1, 2020, the commissioner shall adopt rules implementing any such recommendations it deems appropriate.*

*(4) In 2023, by no later than September 30, the commissioner shall submit to the mayor and the speaker of the council, and make publicly available online, a report on whether a sufficient quantity of biodiesel is expected to be available to meet the requirements of clauses (C), (D) and (E) of subparagraph (i) of paragraph one of this subdivision.*

*(5) The commissioner may authorize the use of any renewable fuel in heating systems if [he or she] the commissioner determines that such fuel meets an applicable ASTM International standard or other standard as determined by the commissioner, and the emissions from such fuel contain equal or lesser amounts of particulate matter, sulfur dioxide [and], nitrogen oxides and lifecycle greenhouse gas emissions, as such term is defined in section 7545 of title 42 of the United States code, than the emissions from [fuel oil grade no. 2] the heating oil required to be used pursuant to paragraph one of this subdivision.*

*(c) The commissioner may waive the requirements of paragraph one of subdivision b of this section in accordance with the provisions of this subdivision.*

*(1) A waiver may be issued for a particular type of boiler or fuel if the commissioner finds that:*

*(i) a sufficient quantity of bioheating fuel [containing two percent biodiesel] is not available in the city for that boiler type;*

(ii) (A) the price of available bioheating fuel for that boiler type is at least fifteen percent more than the price of a comparable fuel oil grade of one hundred percent petroleum heating oil or (B) the average price of available bioheating fuel for that boiler type for the preceding calendar year is at least eight percent more than the average price of a comparable fuel oil grade of one hundred percent petroleum heating oil for such year;

(iii) the use of bioheating fuel would void the manufacturer's warranty for that boiler type or the manufacturer has certified that the use of bioheating fuel would cause compatibility issues with the boiler that do not have a technical solution or for which a technical solution would exceed fifteen percent of the replacement costs of a new, compatible boiler; or

(iv) there is no applicable ASTM International standard or other standard as determined by the commissioner to govern the specification of the bioheating fuel for purposes of receiving bids and enforcing contracts.

(2) Any waiver issued pursuant to subparagraph (i) or (ii) of paragraph one of this subdivision shall expire after three months, unless renewed in writing by the commissioner.

(3) Any waiver issued pursuant to subparagraph (iii) or (iv) of paragraph one of this subdivision shall expire after six months, unless renewed in writing by the commissioner.

(4) A waiver may be issued for a specific district steam system if the commissioner finds based on documentation submitted by the applicant, including but not limited to a report certified by a professional engineer, that compliance with the requirements of paragraph one of subdivision b of this section would result in damage to equipment used to generate steam within such district steam system. Any waiver issued pursuant to this paragraph shall expire after one year, unless renewed in writing by the commissioner.

(5) Upon application by the owner of a boiler, the commissioner may waive the requirements of paragraph one of subdivision b of this section for such boiler if such application is submitted to the commissioner on or before October 1, 2017, and such owner shows, to the satisfaction of the commissioner, that (i) such boiler was installed on or before October 1, 2017,

*(ii) residual fuel was used in such boiler on or before October 1, 2017, and (iii) such boiler is not equipped with valves or seals of a type and material that are appropriate for use with fuel oil that meets the requirements of paragraph one of subdivision b of this section, as set forth in rules promulgated by the commissioner, or compliance with the requirements of paragraph one of subdivision b of this section would otherwise result in damage to such boiler as set forth in rules promulgated by the commissioner. Any waiver issued pursuant to this paragraph shall expire after six months.*

*(6) When issuing a waiver for a boiler pursuant to paragraph five of this subdivision, the commissioner shall order the owner of such boiler to undertake such repairs or improvements to such boiler as may be necessary for such boiler to safely comply with the requirements of paragraph one of subdivision b of this section. Upon completion of such repairs or improvements, such owner shall submit a certification that such repairs or improvements were completed, signed by the person who performed such repairs or improvements, to the commissioner. An owner who fails to comply with such order or to submit such certification before such waiver expires shall be subject to a civil penalty of \$5,000.*

§ 3. Subdivision (h) of section 24-168.1 of the administrative code of the city of New York, as amended by local law number 38 for the year 2015, is amended to read as follows:

*(h) The commissioner shall have the authority to sample, test and analyze heating oil supplied to buildings in the city to determine compliance with this section. No later than six months after the end of each fiscal year, the commissioner shall submit to the mayor and the speaker of the council, and make publicly available online, a report detailing enforcement efforts taken pursuant to this subdivision, including the following information disaggregated by borough: (i) the number of such samples tested and analyzed during the fiscal year, disaggregated by the source of such sample, (ii) the results of such testing and analysis and (iii) the number of violations issued as a result of such testing and analysis, disaggregated by the type of entity receiving such violation.*

§ 4. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on September 28, 2016 and approved by the Mayor on October 18, 2016.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 119 of 2016, Council Int. No. 642-A of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel