

5-221 PROHIBITION OF POTENTIALLY POLLUTING MATERIALS IN FUEL

(1) Sulfur Limitations_s in Fuel

(a) No person shall cause or permit the use, purchase, or sale for use in stationary combustion installations within the State of Vermont for heat or power generation of:

(i) Fuels containing more than 2.0% sulfur by weight, except as otherwise provided below;

(ii) No. 2 and lighter distillate oils and animal and vegetable oil fuel oils with a sulfur content greater than 0.05% by weight, beginning on January 1, 2014 and ending on December 31, 2017;

(iii) No. 2 and lighter distillate oils and animal and vegetable oil fuel oils with a sulfur content greater than 0.0015% by weight, beginning on January 1, 2018;

(iv) No. 4 residual oil with a sulfur content greater than 0.25% by weight, beginning on January 1, 2018; and

(v) No. 5 and No. 6 residual oils and heavier residual oils with a sulfur content greater than 0.5% by weight, beginning on January 1, 2018.

(b) Notwithstanding the provisions of subsection (1)(a) of this section, fuel stored in Vermont that met the applicable maximum sulfur content limit at the time the fuel was stored in Vermont may continue to be stored, used, offered for sale, sold, delivered or exchanged in trade after the effective date of the applicable limit in subsection (1)(a) of this section.

~~(c)~~ Subsection (1)(a) of this section shall not apply where compounds of sulfur are removed from the *flue gas* to the extent that the *emissions* of compounds of sulfur to the *ambient air* space are no greater than that which would be emitted under ~~§~~ subsection (1)(a) hereof. *Emissions testing and/or continuous emissions monitoring* shall be required to demonstrate that the sulfur compounds emitted have been adequately reduced.

(d) The Secretary, by order, may temporarily suspend the implementation and enforcement of subsection (1)(a) of this section if the Secretary determines, after consulting with the commissioner of public service, that meeting the requirements is not feasible due to an inadequate supply of the required fuel.

~~(e) Provision for unavailability of conforming fuels~~

~~(i) Time Limitations. The permit(s) granted under the provisions of this subsection shall be applicable for a period not to exceed one (1) year. The Secretary shall each year, precedent to the commencing of the heating season, make a determination of the degree of availability or non-availability of fuel in conformance with Subsection (1)(a)~~

~~of this section, on a statewide, regional or individual basis, and also shall, on a continual basis, call for the surveillance of ambient air quality as it pertains to levels of sulfur dioxide.~~

~~(ii) *Fuels Containing Sulfur in Excess of 2.0% by Weight.* Notwithstanding the provisions of Subsection (1)(a) of this section, the Secretary may, upon application and showing by a person that fuel containing 2.0% sulfur by weight or less is not available to him, permit the use, purchase, or sale of fuel containing in excess of 2.0% sulfur by weight but not to exceed 2.2% sulfur by weight for use in stationary combustion installations in the State of Vermont for heat and power generation. Application shall include an affidavit that fuel with a sulfur content of 2.0% by weight or less is not available; that efforts have been made to secure said fuel, describing such efforts; the reasons for the unavailability of said fuel; and the estimated time when fuel containing 2.0% sulfur or less can be obtained. Permission granted to a person under this subsection may contain such conditions or limitations as may, in the judgement of the Secretary, be necessary or suitable in the circumstances, providing that no violation of either National Primary or Secondary Ambient Air Quality Standards will occur. Within three days after any action by the Secretary permitting a person to use, purchase, or sell fuel containing more than 2.0% sulfur by weight, the Secretary will provide written notice of such action to the Regional Administrator of the U.S. Environmental Protection Agency.~~

(de) *Contravention of National Primary or Secondary Ambient Air Quality Standards.* If there is a contravention of national primary or secondary ambient air quality standards promulgated pursuant to the Federal Clean Air Act, as amended (42 U.S.C. 7401, et seq.), the Secretary may impose more stringent sulfur limitations in fuel than contained in subsection (1)(a) of this section on a regional, or individual basis and for such time periods as is necessary to assure continued compliance with the national ambient air quality standards.