



Legislation Text

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File #: Int 0168-2006, Version: A

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Int. No. 168-A

By Council Members Gerson, Yassky, Avella, Brewer, Fidler, Gentile, James, Koppell, Mark-Viverito, Martinez, McMahon, Monserrate, Nelson, Recchia Jr., Sanders Jr., Weprin, Felder, Foster, Liu, Jackson, de Blasio, Gennaro, Eugene, Vallone Jr., Garodnick, Katz, Lappin, Mealy and Sears

A Local Law to amend the administrative code of the city of New York, in relation to the use of ultra low sulfur diesel fuel and the best available technology for reducing the emission of pollutants by diesel fuel-powered ferries owned or operated by the city of New York.

Be it enacted by the Council as follows:

Section 1. Title 19 of the administrative code of the city of New York is amended by adding a new section 19-307 to read as follows:

§19-307 Use of ultra low sulfur diesel fuel and best available technology for city ferries. a. For purposes of this section only, the following terms shall have the following meanings:

(1) “City ferry” means any motorized watercraft that is used as a means of commuter passenger mass transportation by water that is owned or operated by the city of New York.

(2) “Retrofit” means the installation of a pollution control device on the exhaust system after the engine, such as a diesel oxidation catalyst.

(3) “Tier 2 air quality standards for marine engines” means the engine exhaust emission standards listed in 40 C.F.R. Sec. 89.112(a) (for marine diesel engines under 37 kW) and listed in 40 C.F.R. Sec.94.2 (a) (for all other marine diesel engines).

(4) Ultra low sulfur diesel fuel” means diesel fuel that has a sulfur content of no more than fifteen parts per million.

b. As of July 1, 2008, every diesel fuel-powered city ferry shall be powered by ultra low sulfur diesel

fuel.

c. (1) Engine upgrades. Diesel fuel-powered city ferries shall utilize the best available technology for reducing the emissions of pollutants through engine upgrades, in accordance with the following schedule:

- (i) two such ferries shall utilize such technology by July 1, 2008;
- (ii) three such ferries shall utilize such technology by January 1, 2009;
- (iii) four such ferries shall utilize such technology by January 1, 2010;
- (iv) five such ferries shall utilize such technology by July 1, 2010;
- (v) all such ferries shall utilize such technology by January 1, 2011.

(2) Retrofits on the exhaust system. Diesel fuel-powered city ferries shall utilize the best available technology for reducing the emissions of pollutants through retrofits on the exhaust system, in accordance with a proposed schedule to be developed by the commissioner and submitted to the council by July 1, 2009. Thirty days after any successful demonstration of a technology on a city ferry, the schedule shall be reviewed and revised, if appropriate, and resubmitted to the council. Any such proposed and revised schedule shall require the retrofitting of every city ferry as soon as is possible given manufacturing, dry dock, repair and operational considerations.

d. (1) Any diesel fuel-powered city ferry that is newly purchased or placed in operation after the effective date of this section shall meet the then current United States environmental protection agency's air quality standards, provided that such standards shall be at least as stringent as the United States environmental protection agency's Tier 2 air quality standards for marine engines.

(2) Any engine upgrade kit that is certified by the United States environmental protection agency may be used to achieve Tier 2 air quality standards for marine engines.

(3) Any diesel fuel-powered city ferry that on the day first purchased or newly operated by the city meets the then current United States environmental protection agency's air quality standards for marine engines, provided that such standards shall be at least as stringent as the United States environmental protection

agency's Tier 2 air quality standards for marine engines, shall meet the requirements of subdivision c of this section.

(4) Any diesel fuel-powered city ferry that is in use thirty years after being placed into service or at least seven years after the installation of best available technology and cannot be retrofitted, upgraded or repowered to comply with the United States environmental protection agency's Tier 2 air quality standards for marine engines, shall be retired.

e. (1) The commissioner shall make determinations, subject to the written approval of the commissioner of environmental protection, and shall publish a list of such determinations as to the best available technology to be used for each class of city ferry to which this section applies for the purposes of subdivision c of this section. Each such determination, which shall be reviewed and revised as needed but in no event less often than once every six months, shall be based upon the reduction in emissions of particulate matter and the reduction in emissions of nitrogen oxides associated with the use of such technology and shall in no event result in an increase in the emissions of either such pollutant. In determining the best available technology for each class of city ferry, the commissioner shall select technology that has been certified by the United States environmental protection agency or approved by the United States coast guard or such other technology that the commissioner determines is at least as stringent as the United States environmental protection agency Tier 2 air quality standards for marine engines.

(2) The city shall not be required to replace best available technology for reducing the emission of pollutants or other authorized technology utilized for a diesel fuel-powered city ferry in accordance with the provisions of paragraph one of subdivision c of this section within seven years of having first utilized such technology for such ferry.

f. This section shall not apply: (i) where federal or state funding precludes the city from imposing the requirements of this section; or (ii) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter.

g. Subdivision b of this section shall not apply where the commissioner, subject to the written approval of the commissioner of environmental protection, makes a written finding that a sufficient quantity of ultra low sulfur diesel fuel is not available to meet the requirements of subdivision b of this section or is not technically or operationally feasible; provided that the city, shall maximize its use of ultra low sulfur diesel fuel with a sulfur content of fifteen parts per million, and further provided that any diesel fuel used that is not ultra low sulfur diesel fuel contains the next lowest sulfur content available. Any finding made pursuant to this subdivision shall expire after six months, at which time the requirements of subdivision b of this section shall be in full force and effect unless the commissioner renews the finding in writing and such renewal is approved in writing by the commissioner of environmental protection.

h. Subdivision c of this section shall not apply to a diesel fuel-powered city ferry where the commissioner makes a written finding, which is approved in writing by the commissioner of environmental protection, that the best available technology for reducing the emission of pollutants as required by that subdivision is unavailable for such city ferry, is not technically, operationally or economically feasible, or is not available on the required time table due to delays in manufacturing such technology or in the availability of dry dock or other repair facilities that are necessary for installing such technology. Where a finding is in effect pursuant to this subdivision, the city shall revise its proposed engine upgrade implementation schedule within thirty days of the grant of renewal of the finding and use the next best available technology for reducing the emission of pollutants that is appropriate for such city ferry. Any finding made pursuant to this subdivision shall expire after six months, at which time the requirements of subdivision c of this section shall be in full force and effect unless the commissioner renews the finding in writing and such renewal is approved in writing by the commissioner of environmental protection.

i. In determining which technology to use for the purposes of subdivision h of this section, the city shall consider the reduction in emissions of particulate matter and the reduction in emissions of nitrogen oxides associated with the use of such technology, which shall in no event result in an increase in the emissions of

either such pollutant.

j. (1) On or before October 1, 2009 and every succeeding October 1 thereafter, the mayor shall submit to the comptroller and the council a report regarding the use of ultra low sulfur diesel fuel and the best available technology for reducing the emission of pollutants and such other authorized technology in accordance with this section for diesel fuel-powered city ferries during the immediately preceding fiscal year. The information contained in such report shall also be included in the mayor's preliminary management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to: (i) the total number of diesel fuel-powered city ferries; (ii) the number of such diesel-fuel powered city ferries that were powered by ultra low sulfur diesel fuel; (iii) the number of such diesel-fuel powered city ferries that utilized the best available technology for reducing the emission of pollutants, including a breakdown by the type of technology used for each ferry model; (iv) the number of such diesel fuel-powered city ferries that utilized other authorized technology in accordance with this section, including a breakdown by the type of technology used for each city ferry model; (v) the number of city ferries purchased or newly operated by the city after the effective date of this section and whether or not emissions from such ferries meet the United States environmental protection agency's marine engine standards in effect at the time of such purchase or operation, and if the emissions from such ferries do not meet such standards, when they can be expected to meet such standards or meet, at a minimum, the United States environmental protection agency's Tier 2 air quality standards for marine engines; (vi) all findings and renewals of such findings issued pursuant to subdivision g of this section, which, for each finding and renewal, shall include, but not be limited to, the quantity of ultra low sulfur diesel fuel needed to power diesel fuel-powered city ferries and any quantity of diesel fuel used that was not ultra low sulfur diesel fuel; and (vii) all findings and renewals of such findings issued pursuant to subdivision h of this section, which shall include, but not be limited to, all specific information submitted by the city upon which such findings and renewals are based and the type of other authorized technology, if any, utilized in accordance with this section in relation to each finding and renewal.

§2. If any section, subdivision, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the constitutionality or validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§3. This local law shall take effect ninety days after enactment, except that the commissioner of transportation shall take all actions necessary, including the promulgation of rules, to implement this local law on or before such effective date.

SS

2/5/08 11:00 p.m.