

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Comptroller of the Treasury
(DLS Control No. 14-076)**

Overview and Legal and Fiscal Impact

This regulation reduces the maximum sulfur content of No. 1 and No. 2 fuel oils.

The regulation presents no legal issue of concern.

There is minimal fiscal impact on State or local agencies.

Regulation of COMAR Affected

Comptroller of the Treasury:

Motor Fuel Tax: Motor Fuel Inspection: COMAR 03.03.05.04

Legal Analysis

Summary of Regulation

The regulation requires that No. 1 and No. 2 fuel oil meet certain specifications. No. 1 fuel oil is distillate oil intended for vaporizing pot-type and similar burners. No. 2 fuel oil is distillate oil for general purpose domestic heating use in burners not requiring No. 1 fuel oil. This regulation lowers the maximum sulfur content of No. 1 and No. 2 fuel oils as follows:

Current Regulation	.30 percent by mass
After July 1, 2014	.20 percent by mass
After July 1, 2015	.05 percent by mass

No. 1 and No. 2 fuel oil that is stored in the State by the final consumer prior to July 1, 2015 may be used by the consumer after July 1, 2015 until the supply is depleted if the fuel oil met the applicable maximum allowable sulfur content for fuel oil applicable before July 1, 2015.

Legal Issue

The regulation presents no legal issue of concern.

Statutory Authority and Legislative Intent

The Comptroller cites §§ 2-103 of the Tax – General Article and §§ 10-202 and 10-323.1 of the Business Regulation Article as authority for the regulation.

Section 2-103 of the Tax – General Article provides general authority to the Comptroller to adopt regulations to administer the laws that relate to the motor fuel tax.

Section 10-202(a) of the Business Regulation Article authorizes the Comptroller to adopt regulations necessary to administer and enforce sections of law that regulate motor fuel and lubricants. Section 10-101(e)(1) of the Business Regulation Article defines motor fuels as gasoline or special fuel. Section 10-101(l)(1) of the Business Regulation Article states that special fuel means a product that is usable as fuel in an internal combustion engine. Though generally used as fuel oil for heating purposes, No. 1 and No. 2 fuel oil could be usable as fuel in an internal combustion engine.

Section 10-202(b)(1) of the Business Regulation Article requires the Comptroller to adopt regulations to set minimum specifications for motor fuel marketed in the State consistent with the general practices of other states and the petroleum industry.

Section 10-323.1 of the Business Regulation Article requires that motor fuel distributors submit a report to the Comptroller on the volume of sales made to end users that are exempt from the motor fuel tax. This section is unrelated to the authority of the Comptroller to promulgate the proposed regulation that limits the maximum sulfur content of No. 1 and No. 2 fuel oils.

Fiscal Analysis

There is minimal fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The Comptroller's Office advises that the regulation has a minimal impact on State and local governments. No funds are necessary for the Comptroller's Office to implement the regulation.

The Comptroller's Office expects the reduction in authorized sulfur content for No. 1 and No. 2 fuel oils to have minimal cost impacts. The change to 2,000 parts per million (ppm) effective July 1, 2014, is anticipated to have a minimal impact because the fuel oil industry is already providing sulfur-compliant fuel oil in the State. The reduction to 500 ppm effective July 1, 2015, is also anticipated to have a minimal cost impact on the fuel oil industry based on the experiences in other states that have already begun to reduce the sulfur content of fuel oils. Costs will likely continue to be minimal as additional states in the region adopt similar requirements.

Expenditures may increase for State and/or local government agencies to the extent that they heat their buildings with fuel oil. Costs to fuel oil consumers (including State and local agencies) are likely mitigated to some extent due to an increase in heating system efficiency, the prolonged lifetime of heating systems, and the reduced maintenance requirements of existing

heating systems associated with lower sulfur content fuels. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The Comptroller's Office advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Additional Comments

According to the Department of General Services' Energy Database, State expenditures for No. 2 fuel oil were approximately \$10 million annually in fiscal 2011 and 2012, and \$13.8 million in 2013. Over that time, the cost per gallon for the State has risen from \$2.81 to \$3.31.

On the residential side, the percentage of Maryland households that use fuel oil for heat has steadily declined over the past 50 years, decreasing from 54.5% in 1960 to 16.0% in 2000. Fuel oil has largely been replaced with electric heat, while the percentage of utility gas customers has remained largely stable. Nationally, fuel oil use has declined since 1960; however, it is still the primary home heating source in much of the Northeast region.

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