

Introduced by: Councilmember Reisinger, Henry, ^{Costello} ~~Costello~~, ^{Stoke} ~~Costello~~, Bullok, ^{Smith} ~~Costello~~, ^{Clarke} ~~Costello~~
Prepared by: Department of Legislative Reference Date: November 13, 2018 ^{Middle} ~~DORSEY~~
Referred to: LAND USE AND TRANSPORTATION Committee ^{Pinnett} ~~Clarke~~

Also referred for recommendation and report to municipal agencies listed on reverse.

CITY COUNCIL 18-0306

A BILL ENTITLED

AN ORDINANCE concerning

Health Code - Clean Air Regulation

C.V. Co

Bill A

FOR the purpose of regulating the emissions from commercial solid waste incinerators; defining certain terms; requiring the continuous monitoring of certain pollutants; setting emissions limits for certain pollutants; requiring the production and public disclosure of certain emissions reports; requiring commercial solid waste incinerators to allow certain inspections; establishing a certification process for air monitoring contractors; setting certain penalties; setting special effective dates; and generally relating to clean air regulations.

BY adding
Article - Health
Section(s) 8-110 to 8-126, to be under a new designation entitled
"Part II. Commercial Solid Waste Incinerators"
Baltimore City Code
(Edition 2000)

[Handwritten signature]

[Handwritten signature]

BY repealing and reordaining, without amendments
Article - Health
Section(s) 8-301
Baltimore City Revised Code
(Edition 2000)

[Handwritten signature]

[Handwritten signature]

BY repealing and reordaining, with amendments
Article - Health
Section(s) 8-302
Baltimore City Revised Code
(Edition 2000)

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****The introduction of an Ordinance or Resolution by Councilmembers at the request of any person, firm or organization is a courtesy extended by the Councilmembers and not an indication of their position.**

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Agencies

<input checked="" type="checkbox"/>	Department of Public Works	<input type="checkbox"/>	Baltimore City Public School System
<input type="checkbox"/>	Department of Real Estate	<input type="checkbox"/>	Baltimore Development Corporation
<input type="checkbox"/>	Department of Recreation and Parks	<input checked="" type="checkbox"/>	City Solicitor
<input type="checkbox"/>	Department of Transportation	<input type="checkbox"/>	Comptroller's Office
<input type="checkbox"/>	Fire Department	<input type="checkbox"/>	Department of Audits
<input checked="" type="checkbox"/>	Health Department	<input type="checkbox"/>	Department of Finance
<input type="checkbox"/>	Mayor's Office of Employment Development	<input type="checkbox"/>	Department of General Services
<input type="checkbox"/>	Mayor's Office of Human Services	<input type="checkbox"/>	Department of Housing and Community Development
<input type="checkbox"/>	Mayor's Office of Information Technology	<input type="checkbox"/>	Department of Human Resources
<input type="checkbox"/>	Office of the Mayor	<input type="checkbox"/>	Department of Planning
<input type="checkbox"/>	Police Department	<input type="checkbox"/>	Other: _____
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____
<input type="checkbox"/>	Environmental Control Board	<input type="checkbox"/>	Board of Estimates
<input type="checkbox"/>	Fire & Police Employees' Retirement System	<input type="checkbox"/>	Board of Ethics
<input type="checkbox"/>	Labor Commissioner	<input type="checkbox"/>	Board of Municipal and Zoning Appeals
<input type="checkbox"/>	Parking Authority Board	<input type="checkbox"/>	Comm. for Historical and Architectural Preservation
<input type="checkbox"/>	Planning Commission	<input checked="" type="checkbox"/>	Commission on Sustainability
<input type="checkbox"/>	Wage Commission	<input type="checkbox"/>	Employees' Retirement System
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____

Boards and Commissions

<input checked="" type="checkbox"/>	Environmental Control Board	<input type="checkbox"/>	Board of Estimates
<input type="checkbox"/>	Fire & Police Employees' Retirement System	<input type="checkbox"/>	Board of Ethics
<input type="checkbox"/>	Labor Commissioner	<input type="checkbox"/>	Board of Municipal and Zoning Appeals
<input type="checkbox"/>	Parking Authority Board	<input type="checkbox"/>	Comm. for Historical and Architectural Preservation
<input type="checkbox"/>	Planning Commission	<input checked="" type="checkbox"/>	Commission on Sustainability
<input type="checkbox"/>	Wage Commission	<input type="checkbox"/>	Employees' Retirement System
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____

CITY OF BALTIMORE
ORDINANCE 19-232
Council Bill 18-0306

Introduced by: Councilmembers Reisinger, Henry, Costello, Scott, Bullock, Stokes, Burnett,
Cohen, Middleton, Dorsey, Pinkett, Sneed, Clarke

Introduced and read first time: November 19, 2018

Assigned to: Land Use and Transportation Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: February 4, 2019

AN ORDINANCE CONCERNING

Health Code – Clean Air Regulation

1

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3 certain terms; requiring the continuous monitoring of certain pollutants; setting emissions
4 limits for certain pollutants; requiring the production and public disclosure of certain
5 emissions reports; requiring commercial solid waste incinerators to allow certain inspections;
6 establishing a certification process for air monitoring contractors; setting certain penalties;
7 setting special effective dates; and generally relating to clean air regulations.

8 BY adding

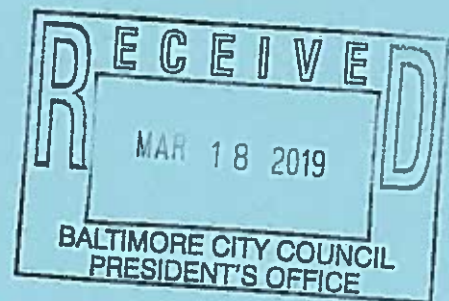
9 Article - Health
10 Section(s) 8-110 to 8-126, to be under a new designation entitled
11 "Part II. Commercial Solid Waste Incinerators"
12 Baltimore City Code
13 (Edition 2000)

14 BY repealing and reordaining, without amendments

15 Article - Health
16 Section(s) 8-301
17 Baltimore City Revised Code
18 (Edition 2000)

19 BY repealing and reordaining, with amendments

20 Article - Health
21 Section(s) 8-302
22 Baltimore City Revised Code
23 (Edition 2000)



EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike-out~~ indicates matter stricken from the bill by
amendment or deleted from existing law by amendment.

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1 BY repealing and reordaining, with amendments
2 Article 1 - Mayor, City Council, and Municipal Agencies
3 Section(s) 40-14(e)(7)(Title 8) and 41-14(6)(Title 8)
4 Baltimore City Code
5 (Edition 2000)

6 SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the
7 Laws of Baltimore City read as follows:

8 **Baltimore City Code**

9 **Article . Health**

10 **Title 8. Air Pollution**

11 ***Subtitle 1. Prohibited Emissions***

12 ***PART II. COMMERCIAL SOLID WASTE INCINERATORS***

13 **§ 8-110. SHORT TITLE AND PURPOSE.**

14 (A) *SHORT TITLE.*

15 THIS PART II SHALL BE KNOWN AND MAY BE CITED AS THE "BALTIMORE CLEAN AIR ACT"

16 (B) *PURPOSE.*

17 THE PURPOSE AND INTENT OF THIS PART II IS TO ENSURE THAT ACCURATE AND COMPLETE
18 INFORMATION IS AVAILABLE TO THE CITY AND GENERAL PUBLIC ABOUT POLLUTANT'S
19 RELEASED FROM COMMERCIAL SOLID WASTE INCINERATORS WITHIN THE CITY AND TO
20 EXERCISE THE AUTHORITY GRANTED TO THE CITY UNDER THE MARYLAND ENVIRONMENT
21 CODE.

22 **§ 8-111. DEFINITIONS.**

23 (A) *IN GENERAL.*

24 THE FOLLOWING WORDS AND PHRASES WHEN USED WITHIN THIS PART II, UNLESS THE
25 CONTEXT CLEARLY INDICATES OTHERWISE, SHALL HAVE THE MEANING ASCRIBED TO THEM
26 IN THIS SECTION.

27 (B) *AIR MONITORING CONTRACTOR.*

28 "AIR MONITORING CONTRACTOR" MEANS AN ENVIRONMENTAL ENGINEER CERTIFIED BY
29 THE CITY TO DESIGN, INSTALL, OPERATE, AND MAINTAIN THE CONTINUOUS EMISSIONS
30 MONITORING SYSTEMS REQUIRED BY THIS PART II.

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1 (C) *COMMERCIAL SOLID WASTE INCINERATOR OR FACILITY* -

2 "COMMERCIAL SOLID WASTE INCINERATOR" OR "FACILITY" MEANS ANY FACILITY IN
3 BALTIMORE CITY THAT PRODUCES ENERGY OR DISPOSES OF WASTE BY COMBUSTING A
4 SOLID FUEL OR WASTE, OR GASES PRODUCED ON-SITE FROM THE GASIFICATION OR
5 PYROLYSIS OF A SOLID FUEL OR WASTE, AND WHICH IS CAPABLE OF PROCESSING AT LEAST
6 25 TONS OF SOLID FUEL OR WASTE PER DAY.

7 (D) *CONTINUOUS EMISSIONS MONITORING SYSTEM OR CEMS*.

8 (1) *IN GENERAL*.

9 "CONTINUOUS EMISSIONS MONITORING SYSTEM" OR "CEMS" MEANS A POLLUTION
10 MONITORING SYSTEM CAPABLE OF SAMPLING, CONDITIONING, ANALYZING, AND
11 PROVIDING A RECORD OF EMISSIONS AT FREQUENT INTERVALS THAT MEETS U.S.
12 ENVIRONMENTAL PROTECTION AGENCY OR MARYLAND DEPARTMENT OF THE
13 ENVIRONMENT DATA ACQUISITION AND AVAILABILITY REQUIREMENTS.

14 (2) *SAMPLING FREQUENCY*.

15 EXCEPT AS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, THE SAMPLING
16 FREQUENCY CAPABILITY SUFFICIENT TO QUALIFY A SYSTEM AS A CEMS FOR THE
17 PURPOSES OF THIS PART II MUST AT A MINIMUM DELIVER A MONITORING SAMPLE:

18 (I) ONCE PER MINUTE; OR

19 (II) ANY LESSER FREQUENCY OF INTERVAL, UP TO NO LESS THAN ONCE PER HOUR,
20 THAT PROVIDES SUFFICIENT DATA FOR A DIRECT DETERMINATION OF
21 COMPLIANCE WITH ALL APPLICABLE EMISSION LIMITATIONS IMPOSED BY THIS
22 PART II.

23 (3) *DIOXIN AND FURAN SAMPLING*.

24 IN THE CASE OF DIOXINS AND FURANS, LONG-TERM SAMPLING EQUIPMENT MAY BE
25 USED IF REAL-TIME MONITORS ARE NOT COMMERCIALY AVAILABLE, SO LONG AS
26 YEAR-ROUND MONITORING IS STILL ACHIEVED THROUGH BACK-TO-BACK USE OF
27 LONG-TERM MONTHLY SAMPLES.

28 (E) *"PERSON"*.

29 "PERSON" MEANS:

30 (1) AN INDIVIDUAL;

31 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
32 KIND;

33 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
34 REPRESENTATIVE OF ANY KIND.

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1 (F) *SOLID FUEL OR WASTE.*

2 "SOLID FUEL" OR "WASTE" MEANS ANY SOLID WASTE, DISCARDED MATERIAL,
3 RECYCLABLE MATERIALS, SLUDGES, BY-PRODUCTS, COMMERCIAL CHEMICAL PRODUCTS,
4 MUNICIPAL WASTE, HAZARDOUS WASTE, BIOMASS, PROCESSED DEBRIS, SPECIAL MEDICAL
5 WASTE, STERILIZED SPECIAL MEDICAL WASTE, SEWAGE SLUDGE, SCRAP TIRES, AUTO
6 SHREDDER RESIDUE, REFUSE-DERIVED FUEL, PROCESSED ENGINEERED FUEL, OR SOLID FUEL
7 PRODUCED FROM MUNICIPAL WASTE.

8 (G) $TEQ_{DF-WHO_{98}}$ -

9 "TEQ_{DF-WHO₉₈}" MEANS A UNIT OF MEASUREMENT FOR DIOXINS AND FURANS,
10 STANDARDIZED TO TOXIC EQUIVALENTS, CALCULATED IN ACCORDANCE WITH THE WORLD
11 HEALTH ORGANIZATION'S 1998 METHOD.

12 § 8-112. SCOPE.

13 ALL COMMERCIAL SOLID WASTE INCINERATORS LOCATED WITHIN BALTIMORE CITY ARE
14 SUBJECT TO THE REQUIREMENTS OF THIS PART II.

15 § 8-113. RULES AND REGULATIONS.

16 (A) *HEALTH COMMISSIONER TO ADOPT.*

17 THE HEALTH COMMISSIONER MAY ADOPT RULES AND REGULATIONS TO IMPLEMENT THIS
18 PART II.

19 (B) *FILING WITH LEGISLATIVE REFERENCE.*

20 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS PART II MUST BE FILED
21 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

22 § 8-114. POLLUTANTS TO BE CONTINUOUSLY MONITORED.

23 EACH FACILITY MUST, AT ITS OWN EXPENSE, CONTRACT WITH AN AIR MONITORING
24 CONTRACTOR CERTIFIED BY THE HEALTH COMMISSIONER IN ACCORDANCE WITH § 8-124
25 {"AIR MONITORING CONTRACTOR CERTIFICATION"} TO INSTALL, OPERATE, AND MAINTAIN
26 CONTINUOUS EMISSIONS MONITORING SYSTEMS ("CEMS") EQUIPMENT TO MONITOR,
27 MEASURE, AND DISCLOSE THE SMOKESTACK EMISSION OF THE FOLLOWING POLLUTANTS:

- 28 (1) DIOXINS AND FURANS, AS MEASURED AT A POINT, AFTER ALL AIR POLLUTION CONTROL
29 DEVICES, WHERE THE EXHAUST GASES HAVE COOLED TO BELOW 200 DEGREES
30 CENTIGRADE;
- 31 (2) CARBON DIOXIDE (CO₂) AND CARBON MONOXIDE (CO);
- 32 (3) HYDROCHLORIC ACID (HCL) AND HYDROFLUORIC ACID (HF);
- 33 (4) NITROGEN OXIDES (NOX);

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- 1 (5) SULFUR DIOXIDES (SO₂);
2 (6) PARTICULATE MATTER (PM);
3 (7) VOLATILE ORGANIC COMPOUNDS (VOCs);
4 (8) POLYCYCLIC AROMATIC HYDROCARBONS (PAHS); AND
5 (9) ARSENIC, CADMIUM, CHROMIUM (VI), LEAD, MANGANESE, MERCURY, NICKEL,
6 SELENIUM, AND ZINC.

7 § 8-115. MONITORING SYSTEM TO BE CONTINUOUSLY ACTIVE.

8 (A) *IN GENERAL.*

9 A FACILITY'S CEMS MUST BE OPERATIONAL AT ALL TIMES THAT THE FACILITY IS
10 OPERATING.

11 (B) *GAPS OF MORE THAN 30 MINUTES A VIOLATION.*

12 CEMS DOWNTIME THAT EXCEEDS 30 CONSECUTIVE MINUTES WHILE A FACILITY IS
13 OPERATING ARE A VIOLATION OF THIS SECTION.

14 § 8-116. EMISSION LIMITS.

15 (A) ~~LIMITS ON JANUARY 1, 2020~~ FOR MERCURY AND SULFUR DIOXIDE.

16 ~~STARTING JANUARY 1, 2020, EACH~~ EACH FACILITY MUST MEET THE FOLLOWING
17 POLLUTION LIMITS:

- 18 (1) MERCURY: 15 MICROGRAMS PER DRY STANDARD CUBIC METER
19 (µg/DSCM) CORRECTED AT 7% O₂
20 (2) SULFUR DIOXIDE (SO₂): 18 PARTS PER MILLION DRY VOLUME (PPMVD)
21 CORRECTED AT 7% O₂ (24 HOUR GEOMETRIC MEAN)

22 (B) ~~LIMITS ON JANUARY 1, 2022~~ LIMITS FOR DIOXINS/FURANS AND NITROGEN OXIDES.

23 STARTING JANUARY 1, 2022, IN ADDITION TO THE LIMITS IMPOSED BY SUBSECTION (B) OF THIS
24 SECTION, EACH FACILITY MUST MEET THE FOLLOWING POLLUTION LIMITS:

- 25 (1) DIOXINS/FURANS (PCDD/F): 2.6 NANOGRAMS TEQ_{DF-WHO98} PER DRY
26 STANDARD CUBIC METER (NG/DSCM)
27 CORRECTED AT 7% O₂
28 (2) NITROGEN OXIDES (NOX): 45 PARTS PER MILLION DRY VOLUME (PPMVD)
29 CORRECTED AT 7% O₂ (24 HOUR BLOCK
30 ARITHMETIC MEAN)

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1 40 PARTS PER MILLION DRY VOLUME (PPMVD)
2 CORRECTED AT 7% O₂ (12 MONTH ROLLING
3 AVERAGE)

4 § 8-117. ADOPTION AND INCORPORATION OF OTHER LIMITS AND STANDARDS.

5 (A) *ADOPTION OF MORE STRINGENT STATE OR FEDERAL STANDARDS.*

6 IF THE U.S. ENVIRONMENTAL PROTECTION AGENCY OR THE STATE OF MARYLAND ADOPTS A
7 MORE STRINGENT STANDARD, LIMIT, OR REQUIREMENT FOR THE EMISSION OF AIR
8 CONTAMINANTS, A MORE STRINGENT STANDARD OF PERFORMANCE FOR ANY FACILITY
9 REGULATED BY THIS PART II, OR A MORE STRINGENT STANDARD OF PERFORMANCE FOR
10 STATIONARY SOURCES THAT WOULD APPLY TO A FACILITY THAN IS IMPOSED BY THIS PART II,
11 THE FACILITY MUST MEET THE MORE STRINGENT REQUIREMENT.

12 (B) *CITY ENFORCEMENT.*

13 IT IS EXPRESSLY THE INTENT OF THE CITY IN ADOPTING THE STANDARDS, LIMITS,
14 REQUIREMENTS, AND STANDARDS OF PERFORMANCE REFERENCED IN SUBSECTION (A) OF THIS
15 SECTION TO MAKE THOSE MORE STRINGENT REQUIREMENTS INDEPENDENTLY ENFORCEABLE BY
16 THE CITY OF BALTIMORE.

17 § 8-118. TO § 8-119. {RESERVED}

18 § 8-120. REQUIRED CEMS REPORTS.

19 (A) *REPORTS REQUIRED.*

20 (1) EACH FACILITY MUST PROVIDE A DAILY REPORT TO ITS AIR MONITORING CONTRACTOR
21 THAT DETAILS:

22 (I) THE DAILY EMISSIONS FROM THE FACILITY OF THE POLLUTANTS LISTED IN § 8-114.
23 {"POLLUTANTS TO BE CONTINUOUSLY MONITORED"} OF THIS PART II; AND

24 (II) THE REASONS FOR ANY CEMS DOWNTIME.

25 (2) ALL DATA SUPPLIED AS PART OF THE REPORTS REQUIRED BY THIS SECTION IS PROPERTY OF
26 THE CITY OF BALTIMORE.

27 (B) *FORM OF REPORT.*

28 THE DAILY REPORT REQUIRED BY THIS SECTION MUST BE IN THE FORM SPECIFIED BY THE
29 HEALTH COMMISSIONER AND INCLUDE ALL RELEVANT MACHINE READABLE RAW DATA.

30 (C) *REASONABLE ACCESS REQUIRED.*

31 A FACILITY MUST PROVIDE REASONABLE ACCESS TO ITS PROPERTY AND OPERATIONS TO THE AIR
32 MONITORING CONTRACTOR RESPONSIBLE FOR PREPARING THE REPORTS REQUIRED BY THIS
33 SECTION TO ENABLE THE REPORTS TO BE PREPARED AND VERIFIED.

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1 (D) *HISTORICAL REPORTS.*

2 EACH FACILITY MUST PROVIDE ITS AIR MONITORING CONTRACTOR WITH ALL EMISSIONS
3 REPORTS FOR THE FACILITY PREVIOUSLY PROVIDED TO THE MARYLAND DEPARTMENT OF THE
4 ENVIRONMENT, AND ANY PRIOR AIR MONITORING CONTRACTOR FOR THE FACILITY, AT THE
5 TIME THAT THE AIR MONITORING CONTRACTOR BEGINS MONITORING THE FACILITY.

6 § 8-121. DATA DISCLOSURE.

7 (A) *IN GENERAL.*

8 (1) THE AIR MONITORING CONTRACTOR MUST DISCLOSE THE INFORMATION IT RECEIVES IN THE
9 DAILY REPORTS REQUIRED BY § 8-120(A) {"REQUIRED CEMS REPORTS: REPORTS
10 REQUIRED"} OF THIS PART II TO THE PUBLIC ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE
11 OF PROVIDING AN EASY TO READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

12 (2) THE AIR MONITORING CONTRACTOR MUST ARCHIVE ALL OF THE DAILY REPORTS RECEIVED
13 FROM A FACILITY UNDER § 8-120 {"REQUIRED CEMS REPORTS"} OF THIS PART II AND
14 MAKE THIS ARCHIVED HISTORICAL DATA, TOGETHER WITH ALL DATA PROVIDED BY THE
15 FACILITY UNDER § 8-120(D) {"REQUIRED CEMS REPORTS: HISTORICAL REPORTS"},
16 AVAILABLE ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE OF PROVIDING AN EASY TO
17 READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

18 (B) *REPORTS TO HEALTH DEPARTMENT.*

19 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PROVIDE REPORTS TO THE HEALTH
20 COMMISSIONER, IN THE FORM SPECIFIED BY THE COMMISSIONER AND INCLUDING ALL RELEVANT
21 MACHINE READABLE RAW DATA, ABOUT EMISSIONS FROM THE FACILITY:

22 (1) WHENEVER THE FACILITY EXCEEDS AN EMISSION LIMIT SET UNDER § 8-116 {"EMISSION
23 LIMITS"} OR § 8-117 {"ADOPTION AND INCORPORATION OF OTHER LIMITS AND
24 STANDARDS"};

25 (2) AT REGULAR INTERVALS SET BY THE COMMISSIONER; AND

26 (3) WHENEVER REQUESTED BY THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE.

27 § 8-122. INSPECTIONS.

28 (A) *IN GENERAL.*

29 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PERIODICALLY INSPECT THE
30 CONTINUOUS EMISSIONS MONITORING SYSTEMS INSTALLED AT THE FACILITY AND VERIFY
31 THAT THEY ARE OPERATING CORRECTLY.

32 (B) *TIMES AND INTERVALS.*

33 INSPECTIONS REQUIRED BY THIS SECTION MUST TAKE PLACE AT TIMES AND INTERVALS CHOSEN
34 BY THE HEALTH COMMISSIONER AND WILL NOT BE ANNOUNCED IN ADVANCE TO THE FACILITY.

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1 (C) *FREQUENCY.*

2 NO FEWER THAN 4 INSPECTIONS MUST BE CONDUCTED EACH CALENDAR YEAR.

3 § 8-123. {RESERVED}

4 § 8-124. AIR MONITORING CONTRACTOR CERTIFICATION.

5 (A) *REQUIRED CAPABILITIES.*

6 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST
7 DEMONSTRATE TO THE HEALTH COMMISSIONER'S SATISFACTION THAT IT, USING ITS OWN
8 RESOURCES OR IN PARTNERSHIP WITH 1 OR MORE CO-APPLICANTS, IS CAPABLE OF:

9 (1) PROCURING OR DEVELOPING, AND THEREAFTER INSTALLING, CEMS EQUIPMENT AT A
10 SUBJECT FACILITY;

11 (2) PERFORMING REGULAR INSPECTIONS AS REQUIRED BY § 8-122. {"INSPECTIONS"} OF THIS
12 PART II; AND

13 (3) DEVELOPING SOFTWARE UTILITIES CAPABLE OF CAPTURING AND PUBLICALLY
14 DISPLAYING CEMS DATA NEEDED FOR THE DAILY REPORTS REQUIRED BY § 8-120.
15 {"REQUIRED CEMS REPORTS"} OF THIS PART II.

16 (B) *CONFLICTS OF INTERESTS.*

17 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST NOT
18 HAVE HAD A CONTRACT, OTHER THAN A CONTRACT TO PERFORM THE DUTIES OF AN AIR
19 MONITORING CONTRACTOR UNDER THIS PART II, WITH A FACILITY, OR THE OWNER OR
20 OPERATOR OF A FACILITY:

21 (1) WITHIN THE PAST 10 YEARS; OR

22 (2) FOR THE DURATION OF THEIR ROLE AS AN AIR MONITORING CONTRACTOR.

23 (C) *CERTIFICATION.*

24 ~~THE~~ NO LATER THAN 6 MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDINANCE, THE
25 BALTIMORE CITY HEALTH DEPARTMENT SHALL CERTIFY AN APPLICANT MEETING THE
26 REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION AS AN AIR MONITORING
27 CONTRACTOR WITHIN 90 DAYS OF RECEIVING:

28 (1) INFORMATION, IN THE FORM REQUIRED BY THE HEALTH COMMISSIONER, SUFFICIENT TO
29 DEMONSTRATE THAT THE APPLICANT MEETS THE REQUIREMENTS OF SUBSECTIONS (A)
30 AND (B) OF THIS SECTION; AND

31 (2) PAYMENT OF THE APPLICATION FEE SET BY THE BOARD OF ESTIMATES.

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1 § 8-125. CRIMINAL PENALTIES.

2 (A) *IN GENERAL.*

3 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS PART II, OR OF A RULE OR REGULATION
4 ADOPTED UNDER THIS PART II, IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT
5 TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH
6 FINE AND IMPRISONMENT FOR EACH OFFENSE.

7 (B) *MULTIPLE SIMULTANEOUS VIOLATIONS.*

8 IF A PERSON IS RESPONSIBLE FOR SIMULTANEOUS VIOLATIONS OF MORE THAN 1 SECTION OF THIS
9 PART II, SIMULTANEOUSLY FAILING TO MONITOR, MEASURE, AND DISCLOSE THE EMISSION OF
10 MORE THAN 1 POLLUTANT AS REQUIRED BY § 8-114 {"POLLUTANTS TO BE CONTINUOUSLY
11 MONITORED"} OF THIS PART II, OR SIMULTANEOUSLY VIOLATING MORE THAN 1 STANDARD
12 REQUIRED BY § 8-116 {"EMISSION LIMITS"} OF THIS PART II, EACH SEPARATE VIOLATION
13 CONSTITUTES A SEPARATE OFFENSE.

14 (C) *CONTINUING VIOLATIONS.*

15 EACH DAY THAT A VIOLATION CONTINUES CONSTITUTES A SEPARATE OFFENSE.

16 § 8-126. SEVERABILITY.

17 ALL PROVISIONS OF THIS PART II ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD, PHRASE,
18 CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT
19 THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES IS INVALID,
20 THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR
21 CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

22 *Subtitle 3. Penalties.*

23 § 8-301. Enforcement by citation.

24 (a) *In general.*

25 In addition to any other civil or criminal remedy or enforcement procedure, this title may be
26 enforced by issuance of:

27 (1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental
28 Control Board"}; or

29 (2) a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.

30 (b) *Process not exclusive.*

31 The issuance of a citation to enforce this title does not preclude pursuing any other civil or
32 criminal remedy or enforcement action authorized by law.

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1 **§ 8-302. Penalties: \$1,000.**

2 (a) *In general.*

3 [Any] EXCEPT AS OTHERWISE SPECIFIED, ANY person who violates any provision of this title is
4 guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each
5 offense.

6 (b) *Each day a separate offense.*

7 Each day that a violation continues is a separate offense.

8 **Article 1. Mayor, City Council, and Municipal Agencies**

9 **Subtitle 40. Environmental Control Board**

10 **§ 40-14. Violations to which subtitle applies.**

11 (e) *Provisions and penalties enumerated.*

12 (7) *Health Code*

13

14 Title 8: Air Pollution [\$100]

15 SUBTITLE 2: PROHIBITED EMISSIONS

16 PART II. COMMERCIAL SOLID WASTE INCINERATORS \$1,000

17 ALL OTHER PROVISIONS \$100

18

19 **Subtitle 41. Civil Citations**

20 **§ 41-14. Offenses to which subtitle applies – Listing.**

21 (6) *Health Code*

22

23 Title 8: Air Pollution [\$100]

24 SUBTITLE 2: PROHIBITED EMISSIONS

25 PART II. COMMERCIAL SOLID WASTE INCINERATORS \$1,000

26 ALL OTHER PROVISIONS \$100

27

28 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance are not
29 law and may not be considered to have been enacted as a part of this or any prior Ordinance.

30 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect 18 months after the
31 date it is enacted, except as is hereafter provided.

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1 SECTION 4. AND BE IT FURTHER ORDAINED, That the Health Commissioner may begin to certify
2 Air Monitoring Contractors in accordance with § 8-124 {"Air Monitoring Contractor certification"} of
3 this Ordinance ~~6 months after the date it is enacted~~ on or after the date this Ordinance is enacted.

Certified as duly passed this _____ day of _____, **FEB 11 2019**



President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,

this _____ day of **FEB 11 2019**, 20____



Chief Clerk

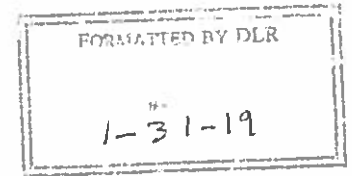
Approved this 7th day of March, 2019



Mayor, Baltimore City



AMENDMENTS TO COUNCIL BILL 18-0306
(1st Reader Copy)



By: Land Use and Transportation Committee

ADOPTED

Amendment No. 1

On page 5, in line 11, strike "*LIMITS ON JANUARY 1, 2020*" and substitute "*FOR MERCURY AND SULFUR DIOXIDE*"; on the same page, in line 12, strike "STARTING JANUARY 1, 2020, EACH" and substitute "EACH"; and, on the same page, in line 18, strike "*LIMITS ON JANUARY 1, 2022*" and substitute "*LIMITS FOR DIOXINS/FURANS AND NITROGEN OXIDES*".

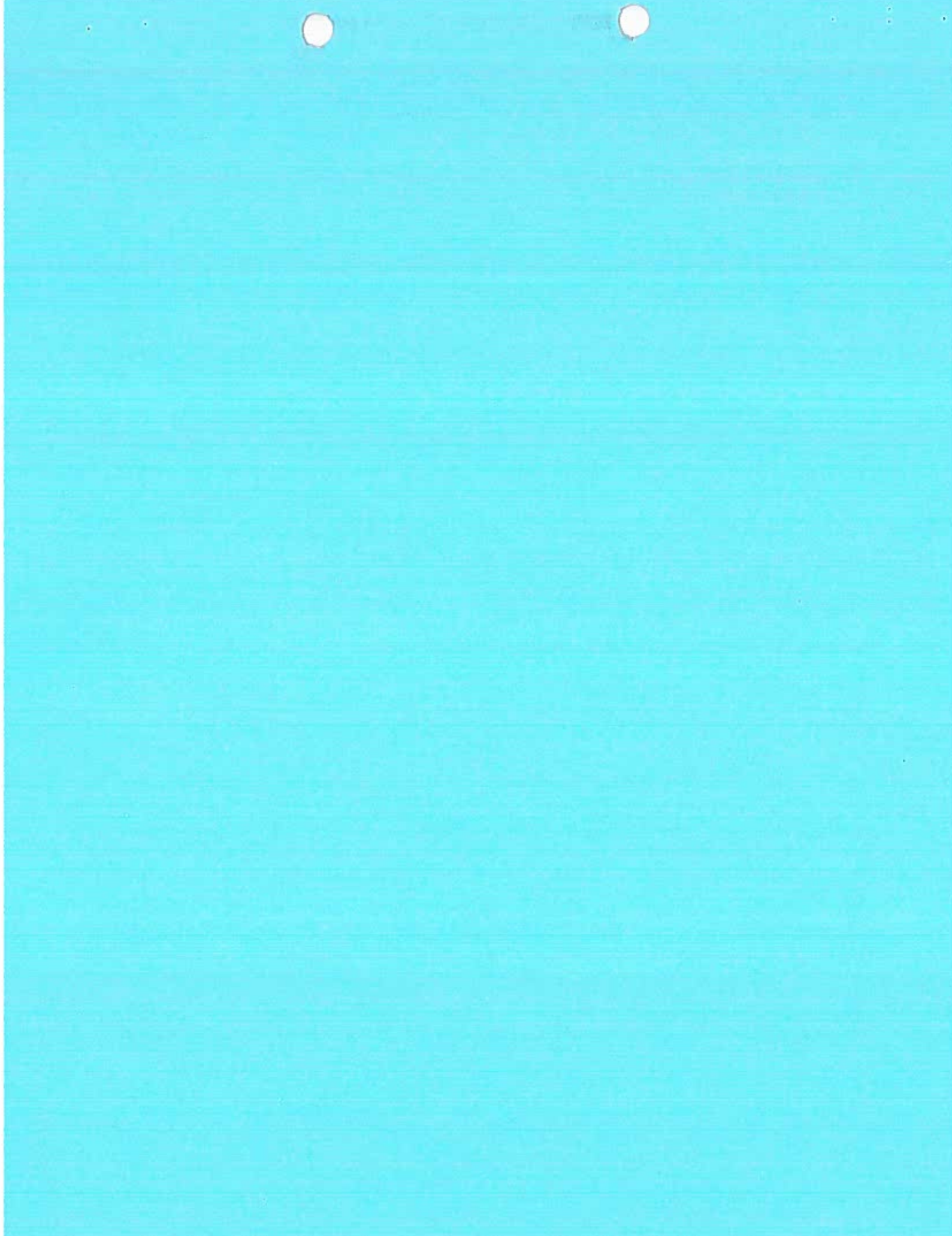
Amendment No. 2

On page 8, in line 22, before "BALTIMORE", strike "THE" and insert "NO LATER THAN 6 MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDINANCE, THE".

Amendment No. 3

On page 10, in line 29, strike "six months after the date it is enacted" and substitute "on or after the date this Ordinance is enacted".

BY repealing and reordaining, with amendments
Article 1 - Mayor, City Council, and Municipal Agencies
Section(s) 40-14(e)(7)(Title 8) and 41-14(6)(Title 8)
Baltimore City Code
(Edition 2000)



**BALTIMORE CITY COUNCIL
LAND USE AND TRANSPORTATION
VOTING RECORD**

DATE: January 30, 2019

BILL#: 18-0306

BILL TITLE: Health Code - Clean Air Regulation

MOTION BY: Dorsey SECONDED BY: Clark

- FAVORABLE FAVORABLE WITH AMENDMENTS
 UNFAVORABLE WITHOUT RECOMMENDATION

NAME	YEAS	NAYS	ABSENT	ABSTAIN
Reisinger, Edward, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Middleton, Sharon, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clarke, Mary Pat	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Costello, Eric	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dorsey, Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pinkett, Leon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stokes, Robert	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TOTALS	<u>7</u>			

CHAIRPERSON: Edward Reisinger

COMMITTEE STAFF: Jennifer L. Coates, Initials: JLC

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 18-0306

Introduced by: Councilmembers Reisinger, Henry, Costello, Scott, Bullock, Stokes, Burnett,
Cohen, Middleton, Dorsey, Pinkett, Sneed, Clarke
Introduced and read first time: November 19, 2018
Assigned to: Land Use and Transportation Committee
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: February 4, 2019

AN ORDINANCE CONCERNING

Health Code – Clean Air Regulation

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FOR the purpose of regulating the emissions from commercial solid waste incinerators; defining certain terms; requiring the continuous monitoring of certain pollutants; setting emissions limits for certain pollutants; requiring the production and public disclosure of certain emissions reports; requiring commercial solid waste incinerators to allow certain inspections; establishing a certification process for air monitoring contractors; setting certain penalties; setting special effective dates; and generally relating to clean air regulations.

BY adding
Article - Health
Section(s) 8-110 to 8-126, to be under a new designation entitled
“Part II. Commercial Solid Waste Incinerators”
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, without amendments
Article - Health
Section(s) 8-301
Baltimore City Revised Code
(Edition 2000)

BY repealing and reordaining, with amendments
Article - Health
Section(s) 8-302
Baltimore City Revised Code
(Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Council Bill 18-0306

1 BY repealing and reordaining, with amendments
2 Article 1 - Mayor, City Council, and Municipal Agencies
3 Section(s) 40-14(e)(7)(Title 8) and 41-14(6)(Title 8)
4 Baltimore City Code
5 (Edition 2000)

6 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
7 Laws of Baltimore City read as follows:

8 **Baltimore City Code**

9 **Article . Health**

10 **Title 8. Air Pollution**

11 ***Subtitle 1. Prohibited Emissions***

12 ***PART II. COMMERCIAL SOLID WASTE INCINERATORS***

13 **§ 8-110. SHORT TITLE AND PURPOSE.**

14 (A) *SHORT TITLE.*

15 THIS PART II SHALL BE KNOWN AND MAY BE CITED AS THE "BALTIMORE CLEAN AIR ACT"

16 (B) *PURPOSE.*

17 THE PURPOSE AND INTENT OF THIS PART II IS TO ENSURE THAT ACCURATE AND COMPLETE
18 INFORMATION IS AVAILABLE TO THE CITY AND GENERAL PUBLIC ABOUT POLLUTANTS
19 RELEASED FROM COMMERCIAL SOLID WASTE INCINERATORS WITHIN THE CITY AND TO
20 EXERCISE THE AUTHORITY GRANTED TO THE CITY UNDER THE MARYLAND ENVIRONMENT
21 CODE.

22 **§ 8-111. DEFINITIONS.**

23 (A) *IN GENERAL.*

24 THE FOLLOWING WORDS AND PHRASES WHEN USED WITHIN THIS PART II, UNLESS THE
25 CONTEXT CLEARLY INDICATES OTHERWISE, SHALL HAVE THE MEANING ASCRIBED TO THEM
26 IN THIS SECTION.

27 (B) *AIR MONITORING CONTRACTOR.*

28 "AIR MONITORING CONTRACTOR" MEANS AN ENVIRONMENTAL ENGINEER CERTIFIED BY
29 THE CITY TO DESIGN, INSTALL, OPERATE, AND MAINTAIN THE CONTINUOUS EMISSIONS
30 MONITORING SYSTEMS REQUIRED BY THIS PART II.

Council Bill 18-0306

1 (C) *COMMERCIAL SOLID WASTE INCINERATOR OR FACILITY* -

2 "COMMERCIAL SOLID WASTE INCINERATOR" OR "FACILITY" MEANS ANY FACILITY IN
3 BALTIMORE CITY THAT PRODUCES ENERGY OR DISPOSES OF WASTE BY COMBUSTING A
4 SOLID FUEL OR WASTE, OR GASES PRODUCED ON-SITE FROM THE GASIFICATION OR
5 PYROLYSIS OF A SOLID FUEL OR WASTE, AND WHICH IS CAPABLE OF PROCESSING AT LEAST
6 25 TONS OF SOLID FUEL OR WASTE PER DAY.

7 (D) *CONTINUOUS EMISSIONS MONITORING SYSTEM OR CEMS*.

8 (1) *IN GENERAL*.

9 "CONTINUOUS EMISSIONS MONITORING SYSTEM" OR "CEMS" MEANS A POLLUTION
10 MONITORING SYSTEM CAPABLE OF SAMPLING, CONDITIONING, ANALYZING, AND
11 PROVIDING A RECORD OF EMISSIONS AT FREQUENT INTERVALS THAT MEETS U.S.
12 ENVIRONMENTAL PROTECTION AGENCY OR MARYLAND DEPARTMENT OF THE
13 ENVIRONMENT DATA ACQUISITION AND AVAILABILITY REQUIREMENTS.

14 (2) *SAMPLING FREQUENCY*.

15 EXCEPT AS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, THE SAMPLING
16 FREQUENCY CAPABILITY SUFFICIENT TO QUALIFY A SYSTEM AS A CEMS FOR THE
17 PURPOSES OF THIS PART II MUST AT A MINIMUM DELIVER A MONITORING SAMPLE:

18 (I) ONCE PER MINUTE; OR

19 (II) ANY LESSER FREQUENCY OF INTERVAL, UP TO NO LESS THAN ONCE PER HOUR,
20 THAT PROVIDES SUFFICIENT DATA FOR A DIRECT DETERMINATION OF
21 COMPLIANCE WITH ALL APPLICABLE EMISSION LIMITATIONS IMPOSED BY THIS
22 PART II.

23 (3) *DIOXIN AND FURAN SAMPLING*.

24 IN THE CASE OF DIOXINS AND FURANS, LONG-TERM SAMPLING EQUIPMENT MAY BE
25 USED IF REAL-TIME MONITORS ARE NOT COMMERCIALY AVAILABLE, SO LONG AS
26 YEAR-ROUND MONITORING IS STILL ACHIEVED THROUGH BACK-TO-BACK USE OF
27 LONG-TERM MONTHLY SAMPLES.

28 (E) *"PERSON"*.

29 "PERSON" MEANS:

30 (1) AN INDIVIDUAL;

31 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
32 KIND;

33 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
34 REPRESENTATIVE OF ANY KIND.

Council Bill 18-0306

1 (F) *SOLID FUEL OR WASTE.*

2 "SOLID FUEL" OR "WASTE" MEANS ANY SOLID WASTE, DISCARDED MATERIAL,
3 RECYCLABLE MATERIALS, SLUDGES, BY-PRODUCTS, COMMERCIAL CHEMICAL PRODUCTS,
4 MUNICIPAL WASTE, HAZARDOUS WASTE, BIOMASS, PROCESSED DEBRIS, SPECIAL MEDICAL
5 WASTE, STERILIZED SPECIAL MEDICAL WASTE, SEWAGE SLUDGE, SCRAP TIRES, AUTO
6 SHREDDER RESIDUE, REFUSE-DERIVED FUEL, PROCESSED ENGINEERED FUEL, OR SOLID FUEL
7 PRODUCED FROM MUNICIPAL WASTE.

8 (G) $TEQ_{DF-WHO_{98}}$ -

9 "TEQ_{DF-WHO₉₈}" MEANS A UNIT OF MEASUREMENT FOR DIOXINS AND FURANS,
10 STANDARDIZED TO TOXIC EQUIVALENTS, CALCULATED IN ACCORDANCE WITH THE WORLD
11 HEALTH ORGANIZATION'S 1998 METHOD.

12 § 8-112. SCOPE.

13 ALL COMMERCIAL SOLID WASTE INCINERATORS LOCATED WITHIN BALTIMORE CITY ARE
14 SUBJECT TO THE REQUIREMENTS OF THIS PART II.

15 § 8-113. RULES AND REGULATIONS.

16 (A) *HEALTH COMMISSIONER TO ADOPT.*

17 THE HEALTH COMMISSIONER MAY ADOPT RULES AND REGULATIONS TO IMPLEMENT THIS
18 PART II.

19 (B) *FILING WITH LEGISLATIVE REFERENCE.*

20 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS PART II MUST BE FILED
21 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

22 § 8-114. POLLUTANTS TO BE CONTINUOUSLY MONITORED.

23 EACH FACILITY MUST, AT ITS OWN EXPENSE, CONTRACT WITH AN AIR MONITORING
24 CONTRACTOR CERTIFIED BY THE HEALTH COMMISSIONER IN ACCORDANCE WITH § 8-124
25 {"AIR MONITORING CONTRACTOR CERTIFICATION"} TO INSTALL, OPERATE, AND MAINTAIN
26 CONTINUOUS EMISSIONS MONITORING SYSTEMS ("CEMS") EQUIPMENT TO MONITOR,
27 MEASURE, AND DISCLOSE THE SMOKESTACK EMISSION OF THE FOLLOWING POLLUTANTS:

- 28 (1) DIOXINS AND FURANS, AS MEASURED AT A POINT, AFTER ALL AIR POLLUTION CONTROL
29 DEVICES, WHERE THE EXHAUST GASES HAVE COOLED TO BELOW 200 DEGREES
30 CENTIGRADE;
- 31 (2) CARBON DIOXIDE (CO₂) AND CARBON MONOXIDE (CO);
- 32 (3) HYDROCHLORIC ACID (HCL) AND HYDROFLUORIC ACID (HF);
- 33 (4) NITROGEN OXIDES (NOX);

Council Bill 18-0306

- 1 (5) SULFUR DIOXIDES (SO₂);
2 (6) PARTICULATE MATTER (PM);
3 (7) VOLATILE ORGANIC COMPOUNDS (VOCs);
4 (8) POLYCYCLIC AROMATIC HYDROCARBONS (PAHS); AND
5 (9) ARSENIC, CADMIUM, CHROMIUM (VI), LEAD, MANGANESE, MERCURY, NICKEL,
6 SELENIUM, AND ZINC.

7 § 8-115. MONITORING SYSTEM TO BE CONTINUOUSLY ACTIVE.

8 (A) *IN GENERAL.*

9 A FACILITY'S CEMS MUST BE OPERATIONAL AT ALL TIMES THAT THE FACILITY IS
10 OPERATING.

11 (B) *GAPS OF MORE THAN 30 MINUTES A VIOLATION.*

12 CEMS DOWNTIME THAT EXCEEDS 30 CONSECUTIVE MINUTES WHILE A FACILITY IS
13 OPERATING ARE A VIOLATION OF THIS SECTION.

14 § 8-116. EMISSION LIMITS.

15 (A) ~~LIMITS ON JANUARY 1, 2020~~ FOR MERCURY AND SULFUR DIOXIDE.

16 ~~STARTING JANUARY 1, 2020, EACH~~ EACH FACILITY MUST MEET THE FOLLOWING
17 POLLUTION LIMITS:

- 18 (1) MERCURY: 15 MICROGRAMS PER DRY STANDARD CUBIC METER
19 (µG/DSCM) CORRECTED AT 7% O₂
20 (2) SULFUR DIOXIDE (SO₂): 18 PARTS PER MILLION DRY VOLUME (PPMVD)
21 CORRECTED AT 7% O₂ (24 HOUR GEOMETRIC MEAN)

22 (B) ~~LIMITS ON JANUARY 1, 2022~~ LIMITS FOR DIOXINS/FURANS AND NITROGEN OXIDES.

23 STARTING JANUARY 1, 2022, IN ADDITION TO THE LIMITS IMPOSED BY SUBSECTION (B) OF THIS
24 SECTION, EACH FACILITY MUST MEET THE FOLLOWING POLLUTION LIMITS:

- 25 (1) DIOXINS/FURANS (PCDD/F): 2.6 NANOGRAMS TEQ_{DF}-WHO₉₈ PER DRY
26 STANDARD CUBIC METER (NG/DSCM)
27 CORRECTED AT 7% O₂
28 (2) NITROGEN OXIDES (NOX): 45 PARTS PER MILLION DRY VOLUME (PPMVD)
29 CORRECTED AT 7% O₂ (24 HOUR BLOCK
30 ARITHMETIC MEAN)

Council Bill 18-0306

1 40 PARTS PER MILLION DRY VOLUME (PPMVD)
2 CORRECTED AT 7% O₂ (12 MONTH ROLLING
3 AVERAGE)

4 **§ 8-117. ADOPTION AND INCORPORATION OF OTHER LIMITS AND STANDARDS.**

5 (A) *ADOPTION OF MORE STRINGENT STATE OR FEDERAL STANDARDS.*

6 IF THE U.S. ENVIRONMENTAL PROTECTION AGENCY OR THE STATE OF MARYLAND ADOPTS A
7 MORE STRINGENT STANDARD, LIMIT, OR REQUIREMENT FOR THE EMISSION OF AIR
8 CONTAMINANTS, A MORE STRINGENT STANDARD OF PERFORMANCE FOR ANY FACILITY
9 REGULATED BY THIS PART II, OR A MORE STRINGENT STANDARD OF PERFORMANCE FOR
10 STATIONARY SOURCES THAT WOULD APPLY TO A FACILITY THAN IS IMPOSED BY THIS PART II,
11 THE FACILITY MUST MEET THE MORE STRINGENT REQUIREMENT.

12 (B) *CITY ENFORCEMENT.*

13 IT IS EXPRESSLY THE INTENT OF THE CITY IN ADOPTING THE STANDARDS, LIMITS,
14 REQUIREMENTS, AND STANDARDS OF PERFORMANCE REFERENCED IN SUBSECTION (A) OF THIS
15 SECTION TO MAKE THOSE MORE STRINGENT REQUIREMENTS INDEPENDENTLY ENFORCEABLE BY
16 THE CITY OF BALTIMORE.

17 **§ 8-118. TO § 8-119. {RESERVED}**

18 **§ 8-120. REQUIRED CEMS REPORTS.**

19 (A) *REPORTS REQUIRED.*

20 (1) EACH FACILITY MUST PROVIDE A DAILY REPORT TO ITS AIR MONITORING CONTRACTOR
21 THAT DETAILS:

22 (I) THE DAILY EMISSIONS FROM THE FACILITY OF THE POLLUTANTS LISTED IN § 8-114.
23 {"POLLUTANTS TO BE CONTINUOUSLY MONITORED"} OF THIS PART II; AND

24 (II) THE REASONS FOR ANY CEMS DOWNTIME.

25 (2) ALL DATA SUPPLIED AS PART OF THE REPORTS REQUIRED BY THIS SECTION IS PROPERTY OF
26 THE CITY OF BALTIMORE.

27 (B) *FORM OF REPORT.*

28 THE DAILY REPORT REQUIRED BY THIS SECTION MUST BE IN THE FORM SPECIFIED BY THE
29 HEALTH COMMISSIONER AND INCLUDE ALL RELEVANT MACHINE READABLE RAW DATA.

30 (C) *REASONABLE ACCESS REQUIRED.*

31 A FACILITY MUST PROVIDE REASONABLE ACCESS TO ITS PROPERTY AND OPERATIONS TO THE AIR
32 MONITORING CONTRACTOR RESPONSIBLE FOR PREPARING THE REPORTS REQUIRED BY THIS
33 SECTION TO ENABLE THE REPORTS TO BE PREPARED AND VERIFIED.

Council Bill 18-0306

1 (D) *HISTORICAL REPORTS.*

2 EACH FACILITY MUST PROVIDE ITS AIR MONITORING CONTRACTOR WITH ALL EMISSIONS
3 REPORTS FOR THE FACILITY PREVIOUSLY PROVIDED TO THE MARYLAND DEPARTMENT OF THE
4 ENVIRONMENT, AND ANY PRIOR AIR MONITORING CONTRACTOR FOR THE FACILITY, AT THE
5 TIME THAT THE AIR MONITORING CONTRACTOR BEGINS MONITORING THE FACILITY.

6 § 8-121. DATA DISCLOSURE.

7 (A) *IN GENERAL.*

- 8 (1) THE AIR MONITORING CONTRACTOR MUST DISCLOSE THE INFORMATION IT RECEIVES IN THE
9 DAILY REPORTS REQUIRED BY § 8-120(A) {"REQUIRED CEMS REPORTS: REPORTS
10 REQUIRED"} OF THIS PART II TO THE PUBLIC ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE
11 OF PROVIDING AN EASY TO READ GRAPHICAL PORTRAYAL OF THE INFORMATION.
- 12 (2) THE AIR MONITORING CONTRACTOR MUST ARCHIVE ALL OF THE DAILY REPORTS RECEIVED
13 FROM A FACILITY UNDER § 8-120 {"REQUIRED CEMS REPORTS"} OF THIS PART II AND
14 MAKE THIS ARCHIVED HISTORICAL DATA, TOGETHER WITH ALL DATA PROVIDED BY THE
15 FACILITY UNDER § 8-120(D) {"REQUIRED CEMS REPORTS: HISTORICAL REPORTS"},
16 AVAILABLE ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE OF PROVIDING AN EASY TO
17 READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

18 (B) *REPORTS TO HEALTH DEPARTMENT.*

19 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PROVIDE REPORTS TO THE HEALTH
20 COMMISSIONER, IN THE FORM SPECIFIED BY THE COMMISSIONER AND INCLUDING ALL RELEVANT
21 MACHINE READABLE RAW DATA, ABOUT EMISSIONS FROM THE FACILITY:

- 22 (1) WHENEVER THE FACILITY EXCEEDS AN EMISSION LIMIT SET UNDER § 8-116 {"EMISSION
23 LIMITS"} OR § 8-117 {"ADOPTION AND INCORPORATION OF OTHER LIMITS AND
24 STANDARDS"};
- 25 (2) AT REGULAR INTERVALS SET BY THE COMMISSIONER; AND
- 26 (3) WHENEVER REQUESTED BY THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE.

27 § 8-122. INSPECTIONS.

28 (A) *IN GENERAL.*

29 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PERIODICALLY INSPECT THE
30 CONTINUOUS EMISSIONS MONITORING SYSTEMS INSTALLED AT THE FACILITY AND VERIFY
31 THAT THEY ARE OPERATING CORRECTLY.

32 (B) *TIMES AND INTERVALS.*

33 INSPECTIONS REQUIRED BY THIS SECTION MUST TAKE PLACE AT TIMES AND INTERVALS CHOSEN
34 BY THE HEALTH COMMISSIONER AND WILL NOT BE ANNOUNCED IN ADVANCE TO THE FACILITY.

Council Bill 18-0306

1 (C) *FREQUENCY.*

2 NO FEWER THAN 4 INSPECTIONS MUST BE CONDUCTED EACH CALENDAR YEAR.

3 § 8-123. *{RESERVED}*

4 § 8-124. AIR MONITORING CONTRACTOR CERTIFICATION.

5 (A) *REQUIRED CAPABILITIES.*

6 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST
7 DEMONSTRATE TO THE HEALTH COMMISSIONER'S SATISFACTION THAT IT, USING ITS OWN
8 RESOURCES OR IN PARTNERSHIP WITH 1 OR MORE CO-APPLICANTS, IS CAPABLE OF:

9 (1) PROCURING OR DEVELOPING, AND THEREAFTER INSTALLING, CEMS EQUIPMENT AT A
10 SUBJECT FACILITY;

11 (2) PERFORMING REGULAR INSPECTIONS AS REQUIRED BY § 8-122. {"INSPECTIONS"} OF THIS
12 PART II; AND

13 (3) DEVELOPING SOFTWARE UTILITIES CAPABLE OF CAPTURING AND PUBLICALLY
14 DISPLAYING CEMS DATA NEEDED FOR THE DAILY REPORTS REQUIRED BY § 8-120.
15 {"REQUIRED CEMS REPORTS"} OF THIS PART II.

16 (B) *CONFLICTS OF INTERESTS.*

17 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST NOT
18 HAVE HAD A CONTRACT, OTHER THAN A CONTRACT TO PERFORM THE DUTIES OF AN AIR
19 MONITORING CONTRACTOR UNDER THIS PART II, WITH A FACILITY, OR THE OWNER OR
20 OPERATOR OF A FACILITY:

21 (1) WITHIN THE PAST 10 YEARS; OR

22 (2) FOR THE DURATION OF THEIR ROLE AS AN AIR MONITORING CONTRACTOR.

23 (C) *CERTIFICATION.*

24 ~~THE~~ NO LATER THAN 6 MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDINANCE, THE
25 BALTIMORE CITY HEALTH DEPARTMENT SHALL CERTIFY AN APPLICANT MEETING THE
26 REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION AS AN AIR MONITORING
27 CONTRACTOR WITHIN 90 DAYS OF RECEIVING:

28 (1) INFORMATION, IN THE FORM REQUIRED BY THE HEALTH COMMISSIONER, SUFFICIENT TO
29 DEMONSTRATE THAT THE APPLICANT MEETS THE REQUIREMENTS OF SUBSECTIONS (A)
30 AND (B) OF THIS SECTION; AND

31 (2) PAYMENT OF THE APPLICATION FEE SET BY THE BOARD OF ESTIMATES.

Council Bill 18-0306

1 § 8-125. CRIMINAL PENALTIES.

2 (A) *IN GENERAL.*

3 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS PART II, OR OF A RULE OR REGULATION
4 ADOPTED UNDER THIS PART II, IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT
5 TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH
6 FINE AND IMPRISONMENT FOR EACH OFFENSE.

7 (B) *MULTIPLE SIMULTANEOUS VIOLATIONS.*

8 IF A PERSON IS RESPONSIBLE FOR SIMULTANEOUS VIOLATIONS OF MORE THAN 1 SECTION OF THIS
9 PART II, SIMULTANEOUSLY FAILING TO MONITOR, MEASURE, AND DISCLOSE THE EMISSION OF
10 MORE THAN 1 POLLUTANT AS REQUIRED BY § 8-114 {"POLLUTANTS TO BE CONTINUOUSLY
11 MONITORED"} OF THIS PART II, OR SIMULTANEOUSLY VIOLATING MORE THAN 1 STANDARD
12 REQUIRED BY § 8-116 {"EMISSION LIMITS"} OF THIS PART II, EACH SEPARATE VIOLATION
13 CONSTITUTES A SEPARATE OFFENSE.

14 (C) *CONTINUING VIOLATIONS.*

15 EACH DAY THAT A VIOLATION CONTINUES CONSTITUTES A SEPARATE OFFENSE.

16 § 8-126. SEVERABILITY.

17 ALL PROVISIONS OF THIS PART II ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD, PHRASE,
18 CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT
19 THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES IS INVALID,
20 THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR
21 CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

22 *Subtitle 3. Penalties.*

23 § 8-301. Enforcement by citation.

24 (a) *In general.*

25 In addition to any other civil or criminal remedy or enforcement procedure, this title may be
26 enforced by issuance of:

27 (1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental
28 Control Board"}; or

29 (2) a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.

30 (b) *Process not exclusive.*

31 The issuance of a citation to enforce this title does not preclude pursuing any other civil or
32 criminal remedy or enforcement action authorized by law.

Council Bill 18-0306

1 § 8-302. Penalties: \$1,000.

2 (a) *In general.*

3 [Any] EXCEPT AS OTHERWISE SPECIFIED, ANY person who violates any provision of this title is
4 guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each
5 offense.

6 (b) *Each day a separate offense.*

7 Each day that a violation continues is a separate offense.

8 Article 1. Mayor, City Council, and Municipal Agencies

9 Subtitle 40. Environmental Control Board

10 § 40-14. Violations to which subtitle applies.

11 (e) *Provisions and penalties enumerated.*

12 (7) *Health Code*

13

14 Title 8: Air Pollution [\$100]

15 SUBTITLE 2: PROHIBITED EMISSIONS

16 PART II. COMMERCIAL SOLID WASTE INCINERATORS \$1,000

17 ALL OTHER PROVISIONS \$100

18

19 Subtitle 41. Civil Citations

20 § 41-14. Offenses to which subtitle applies – Listing.

21 (6) *Health Code*

22

23 Title 8: Air Pollution [\$100]

24 SUBTITLE 2: PROHIBITED EMISSIONS

25 PART II. COMMERCIAL SOLID WASTE INCINERATORS \$1,000

26 ALL OTHER PROVISIONS \$100

27

28 SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not
29 law and may not be considered to have been enacted as a part of this or any prior Ordinance.

30 SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect 18 months after the
31 date it is enacted, except as is hereafter provided.

Council Bill 18-0306

1 **SECTION 4. AND BE IT FURTHER ORDAINED,** That the Health Commissioner may begin to certify
2 Air Monitoring Contractors in accordance with § 8-124 {"Air Monitoring Contractor certification"} of
3 this Ordinance ~~6 months after the date it is enacted~~ on or after the date this Ordinance is enacted.

Certified as duly passed this ____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,

this ____ day of _____, 20__

Chief Clerk

Approved this ____ day of _____, 20__

Mayor, Baltimore City





Catherine E. Pugh
Mayor

BALTIMORE CITY

DPW

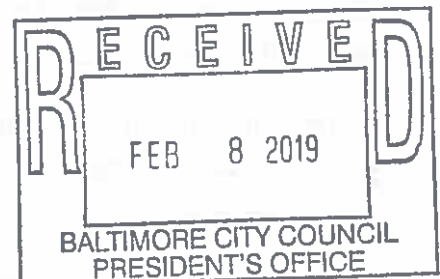
DEPARTMENT OF PUBLIC WORKS

RUDOLPH S. CHOW, P. E.
DIRECTOR

BALTIMORE CITY DEPARTMENT OF PUBLIC WORKS

Fiscal Analysis of Possible Impacts of City Council Bill 18-0306 - Health Code - Clean Air Regulation

February 2019



On Wednesday, January 30, 2019, the Baltimore City Council Land Use and Transportation Committee held a hearing on City Council Bill 18-0306 - Health Code - Clean Air Regulation, which, if enacted, would impose stricter emissions standards on commercial solid waste incinerators in Baltimore City. This legislation would apply to two facilities - the Curtis Bay Medical Waste Services incinerator and the Baltimore Refuse Energy Systems Company (BRESKO) waste-to-energy facility. The owners of BRESKO have expressed that there may be a need to shut down the facility as a result of this legislation.

This fiscal analysis was prepared by the Department of Public Works (DPW) to estimate the impact the near-term closure of BRESKO would have on DPW Bureau of Solid Waste operations and on the City's revenues and expenditures.

DPW is currently in the early stages of a [Long-Term Solid Waste Master Planning process](#). The consultant engaged in this study will compile the data and feedback gathered to develop a set of recommendations to DPW for increasing waste reduction, reuse, recycling, and composting. It will also include recommendations for managing what's left in a sustainable and cost-conscious manner. While the results of this study will not be available until the end of this calendar year, we do know that waste reduction facilities and programs will certainly require capital and operating investments to effectively reduce, reuse, and manage the City's solid waste stream.

As a result, this fiscal note is limited to assessing the impact of several BRESKO scenarios on the scope of our current waste stream and disposal means.

City's Relationship with Baltimore Refuse Energy Systems Company (BRESKO)

Baltimore City is one of several jurisdictions, along with private refuse haulers, that use the services of BRESKO to dispose of its collected mixed refuse. Prior to disposing of the collected mixed refuse, BRESKO recovers recyclable materials and then combusts the remaining mixed refuse, reducing the volume of the refuse by 90% in the form of ash¹. The combustion process produces steam and electricity which is sold to local businesses and to the City.

DPW's Bureau of Solid Waste collects municipal waste from City households, small businesses, small non-profits, municipal buildings, and some condos. About half of this waste (51%)² is brought to BRESKO for disposal. The portion of mixed waste that does not go to BRESKO is disposed of at the City's Quarantine Road Landfill (QRL). Baltimore City has a contractual relationship with BRESKO for acceptance of the residential mixed refuse it collects for disposal for a per ton tipping fee.

In addition to tipping fees, Baltimore City receives revenue from BRESKO that include a host fee for this regional facility, site lease payments, and property taxes. In the past, it also received

¹ <https://www.epa.gov/smm/energy-recovery-combustion-municipal-solid-waste-msw>

² 156,885 tons of trash was incinerated at BRESKO and 149,635 tons were landfilled in CY 2017.

electricity SWAP payments. Combusting the majority of the City's mixed refuse into ash significantly reduces the amount of landfill space needed for disposal, saving landfill space; combustion of waste results in approximately a 90% reduction in volume. Under the Maryland Recycling Act, Baltimore City receives a 5% credit toward its State-mandated 35% recycling goal of mainstream waste, due to its use of a waste-to-energy facility.

Bureau of the Budget and Management Research: Baseline Projections

The Bureau of the Budget and Management Research (BBMR) has prepared the following baseline projections based on the City's current solid waste disposal arrangement with BRESKO and QRL, and the City's current planned expansion of the existing QRL landfill, which, per DPW estimates, will reach capacity in 2026. The table below shows a projection of General Fund solid waste disposal revenues and expenditures over the next six years, which would put the City on schedule for its planned expansion of QRL. These figures assume that the City continues with its current disposal model utilizing both BRESKO and QRL, and that the Wheelabrator contract is extended at an annual 2.5% cost increase beyond its 2021 expiration date:

SOLID WASTE DISPOSAL	FY20	FY21	FY22	FY23	FY24	FY25	FY26
	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>
<u>REVENUES</u>							
<i>BRESKO</i>							
Real Property Tax	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Personal Property Tax	1.7	1.7	1.7	1.8	1.8	1.8	1.8
Lease Payments	2.1	2.2	2.3	2.3	2.4	2.4	2.5
Solid Waste Surcharge	2.6	2.7	2.7	2.8	2.9	2.9	3.0
Host Community Fee	1.0	1.0	1.1	1.1	1.1	1.1	1.2
Ash Disposal	<u>2.4</u>	<u>2.5</u>	<u>2.5</u>	<u>2.6</u>	<u>2.6</u>	<u>2.7</u>	<u>2.8</u>
<i>Sub-Total</i>	<i>10.1</i>	<i>10.4</i>	<i>10.6</i>	<i>10.8</i>	<i>11.1</i>	<i>11.3</i>	<i>11.6</i>
<i>Landfill</i>							
Tipping Fee Revenue	<u>4.6</u>	<u>4.7</u>	<u>4.8</u>	<u>5.0</u>	<u>5.1</u>	<u>5.2</u>	<u>5.3</u>
<i>Sub-Total</i>	<i>4.6</i>	<i>4.7</i>	<i>4.8</i>	<i>5.0</i>	<i>5.1</i>	<i>5.2</i>	<i>5.3</i>
Total	14.7	15.1	15.4	15.8	16.2	16.5	16.9
<u>EXPENDITURES</u>							
<i>Waste Disposal Operations</i>							
Northwest Transfer Station	1.7	1.7	1.8	1.8	1.9	1.9	2.0
Wheelabrator Tipping Fee	8.9	9.1	9.4	9.6	9.8	10.1	10.3
Recycling	2.0	2.1	2.1	2.2	2.2	2.3	2.3
Landfill Operation	<u>5.8</u>	<u>5.9</u>	<u>6.1</u>	<u>6.2</u>	<u>6.4</u>	<u>6.6</u>	<u>6.7</u>
<i>Sub-Total</i>	<i>18.4</i>	<i>18.9</i>	<i>19.3</i>	<i>19.8</i>	<i>20.3</i>	<i>20.8</i>	<i>21.3</i>
<i>Capital Development</i>							
Contribution to Landfill Development	8.5	8.5	8.5	8.5	8.5	8.5	8.5
Contribution to Landfill Closure	<u>0.9</u>	<u>0.9</u>	<u>0.9</u>	<u>0.9</u>	<u>0.9</u>	<u>0.9</u>	<u>0.9</u>
<i>Sub-Total</i>	<i>9.4</i>	<i>9.4</i>	<i>9.4</i>	<i>9.4</i>	<i>9.4</i>	<i>9.4</i>	<i>9.4</i>
Total	27.8	28.3	28.7	29.2	29.7	30.2	30.7

Bureau of the Budget and Management Research: Financial Impact Projections

If Council Bill 18-0306 is enacted, significant changes to the BRESKO facility would be necessary to meet the newly required emissions levels. Wheelabrator would ultimately need to make a business decision on whether to invest in the required improvements or to shut down the facility completely. If BRESKO were to shut down immediately, the City would need to find an alternative disposal facility.

The Bureau of the Budget and Management Research has prepared the following financial impact projections based on the assumption that the City would need to choose between two immediate options for solid waste disposal: landfilling at QRL, or transporting waste out of the city (or some combination of both).

BBMR Scenario #1: Landfill

The City could choose to utilize the QRL landfill as its primary disposal location. But, the existing QRL landfill and the expanded landfill site would experience shorter lifetimes due to the higher volume of solid waste. In order to maximize space at the landfill for City usage, private haulers and small haulers would be prohibited from QRL, costing the City an estimated \$4.7 million of revenue per year.

Even after maximizing space for City usage, DPW estimates that QRL's remaining capacity would be reduced with a required opening in Fiscal 2024. Longer-term, the expected capacity of the newly developed landfill site would be reduced from approximately thirty years to twenty years. In turn, contributions to the Landfill Trust Fund would need to accelerate by \$6.4 million per year through Fiscal 2024 (versus baseline of \$8.5 million), and then by \$3 million ongoing to prepare the City for the shorter landfill life-cycle.

Operationally, landfill operations would need to be expanded immediately to handle the additional waste going to QRL. Also, the City should expect higher costs for overtime, vehicles, and fuel to account for the longer transit time to QRL. In the current operation, some drivers take waste directly to BRESKO which is more centrally located and more cost-effective.

Finally, the City would lose the revenue generated from BRESKO, which includes real and personal property taxes, lease payments, surcharges, and ash disposal.

The table below shows the potential impact. The cost to the General Fund of this scenario is **\$98.6 million** over seven years, and a recurring cost going forward of **\$12.8 million annually**:

SCENARIO #1: LANDFILL	FY20	FY21	FY22	FY23	FY24	FY25	FY26
General Fund Impact	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>
Lost tipping fee revenue	(4.6)	(4.7)	(4.8)	(5.0)	(5.1)	(5.2)	(5.3)
Additional Landfill Trust contributions	(6.4)	(6.4)	(6.4)	(6.4)	(3.0)	(3.0)	(3.0)
Cost of expanded landfill operations	(1.9)	(2.0)	(2.0)	(2.1)	(2.1)	(2.1)	(2.2)
Additional collection costs	(1.0)	(1.0)	(1.1)	(1.1)	(1.1)	(1.1)	(1.2)
Lost BRESKO revenue	(9.9)	(10.2)	(10.4)	(10.6)	(10.9)	(11.1)	(11.4)
Savings from BRESKO payments	<u>8.9</u>	<u>9.1</u>	<u>9.4</u>	<u>9.6</u>	<u>9.8</u>	<u>10.1</u>	<u>10.3</u>
Total Impact	(14.9)	(15.2)	(15.3)	(15.5)	(12.3)	(12.5)	(12.8)

BBMR Scenario #2: Transporting Waste out of Baltimore City

The City could choose to truck its waste outside of the City (or region). The existing QRL landfill could be phased out as it nears capacity and only operated at reduced levels to handle smaller volumes of waste disposal. But, this option would require additional costs for transportation, tipping fees to external landfills, and new infrastructure investments to handle the transfer of waste between collection and ultimate disposal.

DPW researched nearby landfills for potential disposal options. Tipping fees ranged from \$72 per ton in Harford County to \$100 per ton in Baltimore County. It is unclear if these landfills would have the capacity or desire to accept large volumes of solid waste from Baltimore. Realistically, the City might need to look further for disposal options. As an example, transit costs for shipping to Pennsylvania are estimated at \$30 per ton plus a disposal fee of \$18.50, for a total of \$48.50 per ton. Currently, the City sends 156,000 tons to BRESKO and 62,000 tons to QRL. Shipping all 218,000 tons of City-collected waste to Pennsylvania would cost \$10.5 million annually.

Shipping waste for disposal out of Baltimore would also require additional infrastructure investments. Currently, some waste is held at Northwest Transfer Station (NWTS) before disposal, but NWTS is only permitted to manage 150,000 tons of material per year, which includes both solid waste and recyclable material. In order to hold and consolidate waste for eventual transit and disposal, an additional transfer station would be required. Estimated construction costs are \$10.1 million, and ongoing operations would cost \$2.2 million annually.

In this scenario, the City would also lose the revenue generated by BRESKO, which includes real and personal property taxes, lease payments, surcharges, and ash disposal.

The table below shows the potential impact. It assumes that the landfill remains available in the short-term and then is phased out when a new transfer facility is available to enable shipping in Fiscal 2023. The cost to the General Fund is estimated at **\$73.6 million** over six years, and a recurring cost going forward of **\$15.8 million annually**:

SCENARIO #2: SHIPPING	FY20	FY21	FY22	FY23	FY24	FY25	FY26
General Fund Impact	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>
Reduction in landfill operation	0.0	0.0	0.0	4.0	4.0	4.0	4.0
Lost tipping fee revenue	0.0	0.0	0.0	(5.0)	(5.1)	(5.2)	(5.3)
Lost BRESCO revenue	(9.9)	(10.2)	(10.4)	(10.6)	(10.9)	(11.1)	(11.4)
Savings from BRESCO payments	8.9	9.1	9.4	9.6	9.8	10.1	10.3
Cost of new transfer station	(3.4)	(3.4)	(3.4)	0.0	0.0	0.0	0.0
Cost of new transfer station operations	0.0	0.0	0.0	(2.2)	(2.3)	(2.3)	(2.4)
Cost to ship waste	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>(10.2)</u>	<u>(10.5)</u>	<u>(10.7)</u>	<u>(11.0)</u>
Total Impact	(4.4)	(4.5)	(4.5)	(14.4)	(14.8)	(15.3)	(15.8)

Department of Public Works Operational Analysis

1. Current DPW Plans

1.1. Long-Term Solid Waste Master Plan

DPW is currently in the early stages of a [Long-Term Solid Waste Master Planning process](#). The consultant's work will include stakeholder engagement, waste and recycling characterization studies, a comprehensive evaluation of the existing system, benchmarking with other jurisdictions, and research on best practices and successes for reducing waste generation and increasing diversion and recycling rates. The compilation of this data and feedback will be utilized to develop a set of recommendations for the City and public for improving and increasing waste diversion and recycling, as well as managing what's left in a sustainable and cost-conscious manner. This will be formalized in a Less Waste, Better Baltimore Plan, which will be finalized and presented to DPW. This plan will guide the Department in its efforts to reduce waste production and to increase recycling and composting. It will also provide guidance regarding the options for disposing of the waste remaining after recycling and composting.

This fiscal note is limited to the scope of our current waste stream and disposal means. When completed, the master plan will show what additional programs, operations, and facilities are needed to increase the levels of waste reduction, composting, and recycling. There will be a cost to those priorities. This fiscal note does not go into the details of the costs of the programs and facilities that will be necessary for waste diversion because we do not want to bias the master planning process which will become our guide for future needs and plans.

1.2. Quarantine Road Landfill (QRL) Expansion

DPW is in the process of expanding the City-owned Quarantine Road Landfill, which is currently expected to reach full capacity by 2026. DPW plans to expand QRL onto the adjacent former Millennium Landfill (FML) and construct the first landfill cell by FY 2026 to ensure the City has a means to dispose waste (Table 1). The QRL expansion will add an additional 30 years of capacity to QRL at a new estimated cost of \$99.7 million. Previously, DPW estimated the QRL expansion would cost around \$85 million, but the new cost estimates include the installation of a leachate conveyance and the removal of a million cubic feet of dirt stockpiled on FML.

Preliminary Budget Costs for QRL Expansion

Phase/Component	Project Costs (\$)	Timeframe (Fiscal Year)
Geological and Hydrological Site Report	\$700,000	FY 2019
Design/Permitting/Bid Support	\$4,180,000	FY 2020 - FY 2024
Initial Expansion and Cell 1 Construction	\$51,509,120	FY 2024 - FY 2026
Phase 1 Total	\$56,389,120	
Landfill Cell 2 Construction	\$17,352,920	FY 2026 - FY 2027
Landfill Cell 3 Construction	\$17,352,290	FY 2027 - FY 2028
Landfill Cell 4 Construction	\$8,637,200	FY 2028 - FY 2029
Phase 2 Total	\$43,289,020	
Total	\$99,732,160	

2. Current Revenue and Expenditures

2.1. Current Revenue

The Bureau of Solid Waste is funded through the City's General Fund, and the revenue generated goes back to the General Fund. In CY 2018, Solid Waste generated a total of \$16,820,646 from Quarantine Road Landfill tipping fees, Small Hauler Program payments, and BRESCO payments. The tipping fee at Quarantine Road Landfill is \$67.50 per ton for commercial vehicles, but \$60 per ton for City agency vehicles. In addition, the Small Hauler Program at both Quarantine Road Landfill and Northwest Transfer Station allows haulers that weigh less than 2,000 pounds to dispose waste for \$20 per ton. The City of Baltimore currently receives payments from BRESCO, as shown in the table below. In Calendar Year 2018, the City received \$9,146,698.50 from the combined payments.

CY 2018 BRESKO Payments to Baltimore City

Description	Cost
Host Community Fee (\$)	\$828,533
City Surcharge (\$)	\$2,747,397
Property Taxes (\$)	\$271,407
Personal Property Taxes (\$)	\$1,696,398
Site Lease Payments (\$)	\$1,760,562
Ash Disposal (\$)	\$2,513,332
Total BRESKO Payments	\$9,817,629

The total revenue generated in CY 17 to 18 by the Bureau of Solid Waste is provided in Table 2.

Bureau of Solid Waste Revenue Generated in CY17 and CY18

Description	CY 2017	CY 2018
Tipping Fee	\$7,194,360	\$5,981,615 ³
Small Hauler Program	\$610,278 ⁴	\$1,021,402
BRESKO Payments	\$8,475,768	\$9,817,629
Total	\$16,280,406	\$16,820,646

2.2. Current Expenditures

Expenses to maintain and operate the Bureau of Solid Waste (Bureau) for FY 2017 and 2018 are provided in the table below. These expenditures provide operational costs such as salaries, materials and supplies, and equipment for each service provided by the Bureau. The Bureau budgets for the following services:

- Solid Waste Administration
- Public Right-of-Way Cleaning, includes the Street and Alley Cleaning and the Mechanical Street Sweeping programs
- Vacant and/or Abandoned Property Cleaning and Boarding, includes the Rat Abatement Program
- Waste Removal and Recycling Collection Services
- Waste Re-Use and Disposal

³ Tipping Fees decreased in CY 2018 because the Northwest Transfer Station was closed for a few weeks in 2018 for facility upgrades

⁴ Small Hauler Program began in April 2017 which accounts for the low revenue generated in CY 2017

FY17 and FY18 Bureau of Solid Waste Expenditures

Description	FY 2017	FY 2018	Percent Change (%)
Solid Waste Administration	\$1,597,149.00	\$1,439,614.00	-9.86%
Public Right-of-Way Cleaning	\$21,205,984.00	\$22,233,366.00	4.84%
Vacant/Abandoned Property Cleaning and Boarding	\$8,242,964.00	\$11,240,584.00	36.37%
Waste Removal and Recycling Collection Services	\$29,137,592.00	\$29,693,420.00	1.91%
Waste Re-Use and Disposal	\$17,725,367.00	\$18,416,296.00	3.90%
Total	\$77,909,056.00	\$83,023,280.00	6.56%

2.2.1. Recycling Market’s Impact on Waste Re-Use & Disposal Program Expenditures

The overall expenditure numbers indicate a year-to-year expense increase of 5% each year. Breaking down the waste and reuse disposal program expenditures in the table below, the cost to process the City’s single-stream recycling has increased by 191.04% due to the decline in recyclable material demand and increase in contaminated materials. This increase in expenditure for recyclable materials accounts for over half of the overall expenditure increase in Waste Re-use and Disposal and indicates a scaling issue with the cost of recyclable material.

The recycling markets for various recyclable materials have always fluctuated from year to year depending on the demand for the materials or the cost differential between recycled materials and virgin materials. Due to those fluctuations, the cost or savings to recycle has also fluctuated. Recent events driven mostly by China’s change in its recycling contamination policy has driven up the City’s costs to recycle. Should American businesses step in to fill this void, it would be expected that the recycling markets would become more stable in the future.

***FY17 and FY 18 DPW Bureau of Solid Waste,
Waste Reuse and Disposal Program Expenditures***

Description	FY 2017	FY 2018	Percent Change (%)
Wheelabrator Disposal	\$8,071,172	\$8,541,613	5.83%
Single-Stream Recycling	\$313,355	\$911,973	191.04%
Landfill Operation	\$5,206,600	\$4,972,702	-4.49%
Landfill Closure and Development	\$2,426,121	\$2,479,495	2.20%
Northwest Transfer Station Operation	\$1,708,119	\$1,715,269	0.42%
Total	\$17,725,367.00	\$18,621,052.00	5.05%

3. Possible Impacts of BRESKO Closure

The City would have to decide what the most cost-effective and feasible option or options would be for redirecting its disposal of approximately 200,000 tons of trash per year in the short- and long-term. The City-owned Quarantine Road Landfill is currently projected to have capacity until 2026, but without the ability to use BRESKO, the increased volume of trash taken to the landfill could result in the landfill's early closure in 2024. The planned expansion of the landfill will likely not be ready to accept waste until 2026, so the City will need to find a location to bring its waste in the interim, even if other public or private waste reduction facilities are available and beginning to provide a means to reduce the tonnage of trash needing disposal. There is not currently a location or locations that have been confirmed to accept the waste in the scenario of the closure of BRESKO, however, based on the available cost data and operational realities, the City will incur significant operational cost impacts if waste has to be transported to neighboring jurisdictions and/or neighboring states.

3.1. Impacts on QRL

Under these scenarios, it would likely be necessary to preserve the landfill space for the waste DPW collects from households and small businesses, and the landfill would no longer be able to accommodate non-profit entities, small commercial haulers, individual residents, or other City agencies. This would result in loss in tipping fees and which could lead to a domino effect on those losing access to the landfill, including the possible increase in illegal dumping, which has a cost to clean. On average, other City agencies, private haulers, and small haulers haul about 75,638 tons of waste a year to the Quarantine Road Landfill. Based upon these averages, Bureau of Solid Waste will generate approximately \$4,379,594 per year from City agency, private hauler, and small hauler tipping fees.

Organizations	Average Tons per Year	Tipping Fee per Ton	Total per Year
Department of Transportation	21,203	\$60.00	\$1,272,180
Bureau of Water and Wastewater	25,954	\$67.50	\$1,751,895
Other City Agencies	5,319	\$60.00	\$319,110
Private Haulers	12,067	\$67.50	\$814,489
Small Haulers	11,096	\$20.00	\$221,920
Total	75,638		\$4,379,594

Waste in Tons Disposed at Quarantine Road Landfill

Category	CY 2016	CY 2017	Average Tons per Year
Baltimore City, DPW	60,752	62,677	61,715
Baltimore City, Other Agencies	46,742	58,209	52,476
<i>Department of Transportation</i>	<i>10,864</i>	<i>31,542</i>	<i>21,203</i>
<i>DPW, Bureau of Water and Wastewater</i>	<i>30,368</i>	<i>21,540</i>	<i>25,954</i>
<i>Other City Agencies</i>	<i>5,510</i>	<i>5,127</i>	<i>5,319</i>
Privately Collected Waste	20,923	25,401	23,162
<i>Private Haulers</i>	<i>7,993</i>	<i>16,140</i>	<i>12,067</i>
<i>Small Haulers</i>	<i>12,930</i>	<i>9,262</i>	<i>11,096</i>
Non-profits	3,340	1,207	2,274
BRESCO Ash	149,143	140,289	144,716
Cover Dirt	73,875	192,896	133,386
Total	354,775	480,679	417,728

Quarantine Road Landfill, the City's only landfill, consumes approximately 908.5 cubic yards per day of daily airspace⁵. Based upon this disposal rate, Quarantine Road Landfill (QRL) will have capacity until CY 2026. However, QRL's current disposal rate is low due to the City's ability to decrease mixed-waste refuse by approximately 90% through waste-to-energy combustion.⁶ For example, about 140,289 tons of ash were disposed at the Quarantine Road Landfill in CY 2017⁷, but the landfill's compaction rate remains low at about 1.26 tons per cubic

⁵ 2018 Quarantine Road Landfill Volume Report

⁶ 10-Year Solid Waste Management Plan, page 44.

⁷ Table 4: 140,289 tons of BRESCO ash was landfilled at Quarantine Road Landfill in CY 2017

yard.⁸

Waste in Tons Disposed at BRESKO

Category	CY 2016	CY 2017	Average
Baltimore City, DPW	159,141	156,887	158,014
Baltimore City, Privately Collected	224,843	221,656	223,250
Other Jurisdictions	318,036	327,163	322,600
Total	702,020	705,705	703,863

Upon closure of BRESKO, the Quarantine Road Landfill will have to accept the waste originally sent to BRESKO. In CY 2017, DPW sent approximately 156,887 tons to BRESKO for waste-to-energy consumption⁹. If QRL must accept an additional average of 158,014 tons of waste per year, then the landfill's compaction rate could decrease by half due to the amount of airspace mixed-waste refuse has. A lower compaction rate could result in Quarantine Road Landfill reaching full capacity as early as CY 2024.

3.2. Infrastructure and Operational Needs for Alternative Scenarios

3.2.1. Additional Transfer Station

The costs of fuel and staff time will vary based on the length of each trip to a neighboring landfill. Currently, for example, the trailers travel from the Northwest Transfer Station to Wheelabrator, which is 13 to 17 miles round-trip, depending on the route taken. If the trucks traveled to landfill in one of the neighboring jurisdictions instead, they would be traveling 60 to 80 miles round-trip. This would require a second, large transfer station, new routing, and additional tractor trailers. The City could also choose to hire a private company to truck its waste to a Pennsylvania landfill, if they were willing to accept all or part of the tonnage it. This option would also require a second large transfer station and new routes.

The Northwest Transfer Station (NWTS) is permitted by the Maryland Department of Environment (MDE) to process up to 150,000 tons of material per year¹⁰, but the waste generated in every scenario exceeds NWTS' maximum capacity. The City will need to build a second transfer station to process the remaining waste generated by the City.

An additional transfer station, to be located on the east side of the city, will cost approximately \$10.2 million to design and construct. The transfer still will also need to go through a permitting process with the Maryland Department of the Environment (MDE).

⁸ 2018 Quarantine Road Landfill Volume Report

⁹ Table 5: The City sent 156,887 tons of waste to BRESKO for waste-to-energy consumption

¹⁰ State of Maryland, Refuse Disposal Permit no. 2015-WTS-0038, Part II.C.1.

Estimated Cost to Construct and Operate an Additional Transfer Station

Component	Cost
Design	\$80,000
Construction Estimate	\$8,000,000
Post-Award Service	\$800,000
Change Order	800,000
Inspection	\$320,000
Administration	\$160,000
Total	\$10,160,000

An estimated \$2.5 million per year is required to operate the additional transfer station. These operational costs will include hiring 40 new employees to work in two shifts throughout the work day. The transfer station would continue after the QRL expansion is completed with the same operating cost of \$2 million per year.

3.1.2. Route Optimization

Currently, City collection vehicles with routes in the vicinity of BRESCO drive directly to BRESCO to dispose their waste and then return to their routes. If waste is not disposed at BRESCO, then the City will need to hire a consultant to design new collection routes for the Bureau of Solid Waste vehicles which would cost between \$175,000 and \$225,000, depending on the scope of the project. It is imperative that the collection routes optimize the following:

- Minimal miles driven
- Maximization of stops and lifts per hour
- Balanced workloads across the week
- Minimal overtime
- Improved safety

3.2.1. Alternative Waste Disposal Options

3.2.1.1. Out-of-State Disposal

Based upon existing contract rates, the average tipping fee is \$18.50 per ton and the average transportation cost is \$30.00 per ton to dispose waste in Pennsylvania. However, there is no guarantee that these landfills will or can accept the City's waste. Many transfer stations and landfills are already accepting the maximum tonnage allowed per day and these facilities have the right to refuse disposal if their facility is unable to clear the tipping floor or cover the waste on the active face by the end of the day.

Estimated Annual Cost to Dispose Waste Out-of-State Landfill

	Tons	Average Rate per Tons	Estimated Annual Cost
Disposal Fee	219,729	\$18.50	\$4,064,987
Transportation Fee	219,729	\$30.00	\$6,591,855
		Total	\$10,656,832

3.2.1.2. Disposal at Nearby Jurisdiction

The municipal landfills in Baltimore County, Anne Arundel County, and Harford County are the nearest options for alternative disposal sites if BRESKO were to close. However, this would significantly impact the effective lifetime of those landfills so it is unknown whether those counties would be amenable to accepting large quantities of waste and at what cost. BRESKO is utilized by Baltimore County and a number of private haulers, so if it were to close, those entities would also need to find alternative disposal sites. Therefore, it is likely that landfills would increase their tipping fees in the face of high demand and low supply.

Tipping fees (the amount charged per ton to accept garbage at a disposal site) vary, but at the three landfills mentioned they are between \$72 and \$100 per ton. It is possible that an arrangement could be made to lower those costs. However, if these fees were to remain as listed, the annual tipping fees for the City would range between \$15.8 million and \$22 million. DPW Bureau of Solid Waste does not currently pay tipping fees for waste disposed at the City-owned landfill and it pays \$54.95 per ton for the waste disposed at BRESKO. Other City agencies that utilize QRL pay the standard tipping fee of \$60 per ton.

Tipping Fees for Nearby Jurisdictions

Jurisdictions	Tipping fee per Ton	Total Waste (tons)	Estimated Annual Cost ¹¹
Baltimore County	\$100.00 ¹²	219,729	\$ 21,972,900
Anne Arundel County	\$75.00 ¹³	219,729	\$ 16,479,638
Harford County	\$72.00 ¹⁴	219,729	\$ 15,820,452

¹¹ The estimated annual cost does not include increased operational costs such as, fuel costs, additional CDL drivers, and equipment like tractor trailers and an additional transfer station.

¹² https://www.baltimorecountymd.gov/Agencies/publicworks/solid_waste/trash_disposal_fa.html

¹³ <https://www.aacounty.org/departments/public-works/waste-management/fee-schedule/index.html>

¹⁴ <https://www.harfordcountymd.gov/1858/HWDC-Disposal-Fees-and-Information>

Average Annual Cost	\$18,090,980
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3.2.2. Third-Party Haulers for City Agencies

With Quarantine Road Landfill limited to the Bureau of Solid Waste operations, other City agencies will need to procure their own waste disposal contract. The cost to procure a disposal contract is unknown, but collectively the other City agencies will need to dispose an average of approximately 52,000 tons per year.

3.3. Other Impacts

3.3.1. Illegal Dumping

Currently, the City struggles with illegal dumping. In FY18, the Department spent \$22,666,770 on right of way cleaning services, which includes street and alley cleaning, mechanical street sweeping, marine operations, graffiti removal, and cleaning of business districts. If BRESCO were to close, this would increase the likelihood of illegal dumping since the only collection sites would be NWTS and QRL.

3.3.2. Steam Production

BRESCO produces steam for the City’s central heating grid, a system that is operated by Veolia. It also generates electricity for sale to the electric grid, which is operated by PJM. Veolia uses BRESCO to ensure reliability of the steam supply, as BRESCO provides a minimum amount of steam regardless of how favorable the market prices are. For example, during the many subsequent days of below-freezing temperatures in January of 2018, BGE curtailed gas supply, so Veolia switched their boilers to fuel oil and relied on BRESCO. Many downtown businesses depend on the supply of steam generated at BRESCO.

Conclusion

Currently, the majority of waste collected within Baltimore City is sent to BRESCO for disposal. If this facility were no longer an option, then the City would need to find an alternative waste disposal method due to the limited capacity available at the City-owned landfill. The landfill is currently projected to have capacity until 2026, but the closure of BRESCO will increase landfill usage by possibly 100% a year.

The City would lose approximately \$10 million a year in payments from BRESCO and \$4.5-5 million in tipping fee revenue. There would be necessary expenditures of at least \$10 million for a new transfer station, operating expenses of approximately \$2.2 million a year for the transfer station, increased operating costs at the landfill, and transportation and tipping fees to an outside landfill, which could range from \$10-22 million depending on which landfill is willing and able to accept the waste and how much they would charge.

County Recyclables by Commodity in Tons for Calendar Year 2017

Compiled by the Maryland Department of the Environment from Reports Submitted for Calendar Year 2017
BALTIMORE CITY COUNCIL
PRESIDENT'S OFFICE
FEB 8 2019

County	MRA Rate ² (%)	Mandatory Recycling Rate (%)	Waste Diversion Rate ³ (%)	Maryland Recycling Act (MRA) Materials							Non-MRA Recyclables ⁴	Total Recycling *
				Compostables	Class	Metals	Paper	Plastic	Misc.	Subtotal		
Allegheny	42.15	20.00	45.15	13,260	585	9,384	10,711	1,475	8,220	43,635	362,813	406,448
Anne Arundel	40.99	35.00	45.99	96,528	22,463	13,822	134,670	11,599	8,664	287,746	372,996	660,742
Baltimore City	27.71	35.00	31.71	32,861	5,446	10,237	43,051	10,783	20,287	122,665	513,615	636,280
Baltimore Co.	42.06	35.00	47.06	73,614	11,401	91,512	148,580	12,252	29,824	367,183	492,748	859,931
Calvert	22.84	20.00	22.84	2,082	800	2,104	7,783	732	1,795	15,296	97,571	112,867
Carroll	47.40	35.00	52.40	39,857	8,714	7,929	10,762	6,133	41,632	115,027	350,746	465,773
Cecil	55.16	20.00	59.16	66,097	688	6,740	5,455	1,715	604	81,299	2,611	83,910
Charles	46.25	35.00	50.25	37,745	2,964	10,291	14,680	2,041	1,504	69,225	458,393	527,618
Dorchester	24.78	20.00	24.78	8,481	343	127	1,356	241	278	10,826	54,250	65,076
Frederick	42.12	35.00	47.12	32,797	3,738	5,199	40,665	2,435	8,621	93,455	99,464	192,919
Garrett	48.31	20.00	49.31	9,877	356	2,938	3,738	175	1,990	19,074	15,997	35,071
Harford	40.91	35.00	45.91	35,559	5,262	11,882	29,627	3,738	12,483	98,551	30,604	129,155
Howard	44.40	35.00	49.40	124,041	6,193	17,231	74,827	7,900	9,304	239,496	74,104	313,600
Mid-Shore ¹	53.47	20.00	53.47	47,996	3,892	8,367	33,657	2,639	38,357	134,908	132,380	267,288
Montgomery	55.91	35.00	60.91	171,382	25,990	106,031	128,928	10,992	173,409	616,732	123,415	740,147
Prince George's	55.82	35.00	60.82	114,252	17,715	162,838	189,890	9,758	12,060	506,513	472,626	979,139
Somerset	35.60	20.00	35.60	8,505	169	375	212	45	223	9,529	8,445	17,974
St. Mary's	30.20	20.00	33.20	9,438	2,318	6,749	4,302	1,276	1,586	25,669	27,418	53,087
Washington	49.54	35.00	49.54	1,285	673	13,897	52,924	717	1,486	70,982	26,239	97,221
Wicomico	57.65	20.00	57.65	147,914	652	5,877	3,204	1,551	3,936	163,134	81,327	244,461
Worcester	32.75	20.00	32.75	22,928	2,656	1,162	2,799	1,874	759	32,178	24,910	57,088
State Highways of Additional Asphalt and Concrete Recycled											467,471	467,471
TOTAL*	46.19¹	N/A	50.36²	1,096,499³	123,018	494,692	941,821	90,071	377,022	3,123,123	4,290,143	7,413,266

* Due to rounding, tonnage totals in this table may differ slightly from the sum of actual values (i.e., MRA Recyclables = 3,123,120.48, Non-MRA Recyclables = 4,290,142.72 tons, Total 7,413,263.20 tons. The MRA Recycling rate includes an additional 1,289,249.57 tons for the RRF credit that is not included in this table).


¹ Mid-Shore Regional Recycling Program includes Caroline, Kent, Queen Anne's and Talbot Counties.

² MRA Recycling Rate = (MRA recycling tonnage + RRF credit tonnage) + (MRA recycling tonnage + MRA waste) x 100

³ Waste Diversion Rate = Recycling Rate + Source Reduction (SR) Credit (based on voluntary reporting of SR activities). Bolded rates include both recycling and SR activities. SR activities theoretically reduced the amount of waste generated by 301,549.98 tons.

⁴ Column includes materials, such as construction and demolition debris, land clearing debris and recycled fluids, which fall outside the scope of the standard MRA Recycling Rate, but are reported by the counties as recycled materials.

pp. 60M

FROM	NAME & TITLE	MIRIAM AVINS & REBBECA BAKRE <i>Co-Chairs, Commission on Sustainability</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 th FLOOR		
	SUBJECT	CITY COUNCIL BILL #18-0306 – Health Code - Clean Air Regulation		

DATE:

TO

January 29, 2019

The Honorable President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

The Commission on Sustainability is in receipt of City Council Bill #18-0306 for the purpose of regulating the emissions from commercial solid waste incinerators; requiring the continuous monitoring of certain pollutants; setting emissions limits for certain pollutants; requiring the production and public disclosure of certain emissions reports; requiring commercial solid waste incinerators to allow certain inspections; and generally relating to clean air regulations.

The framework and intent of this bill addresses a goal of the Baltimore Sustainability Plan as approved by City Council on March 2, 2009: Pollution Prevention Goal #1: Improve Baltimore's air quality and eliminate Code Red days

The framework and intent also address efforts outlined in the new 2019 Sustainability Plan (which has been approved by the Sustainability Commission but not yet adopted by the Planning Commission or the City Council):

Clean Air Strategy #1: 1. Reduce emissions from industrial operations to reduce harm to people living nearby.

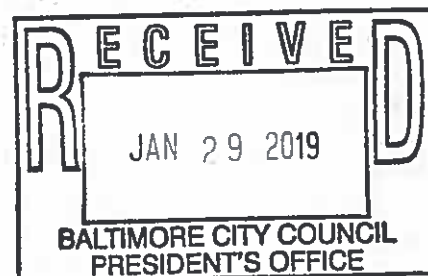
- Action 1: Encourage state-of-the-art pollution controls on all "point source pollution" emitters and improve review of the effect of new permit applications for air pollution sources, particularly those in and near zip codes with high asthma hospitalization rates.

On January 29, 2019, the Commission on Sustainability finalized a vote regarding this legislation: Support/In-Favor: 16 Opposed: 0 Abstain: 1

It was the consensus of the Commission on Sustainability to support City Council Bill # 18-0306.

cc: Mr. Pete Hammen, Chief Operating Officer
Mr. Jim Smith, Chief of Strategic Alliances
Ms. Karen Stokes, Mayor's Office
Mr. Jeff Amoros, Mayor's Office
Ms. Laurie Feinberg, Department of Planning

Favorable



CITY OF BALTIMORE

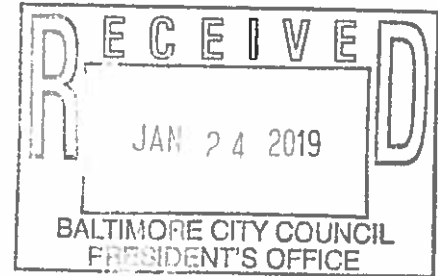
CATHERINE E. PUGH,
Mayor



DEPARTMENT OF LAW
ANDRE M. DAVIS, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

January 24, 2019

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202



Re: City Council Bill 18-0306 – Health Code – Clean Air Regulation

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 18-0306 for form and legal sufficiency. The bill regulates the emissions from commercial solid waste incinerators, which includes setting emissions limits for certain pollutants as well as requiring the continuous monitoring of these pollutants. The bill requires the production and public disclosure of certain emissions reports. It requires that commercial solid waste incinerators allow certain types of inspections and establishes a certification process for air monitoring contractors. Penalties for violations are also established.

The federal Clean Air Act, 42 U.S.C. §§7401 et. Seq. (“CAA”), requires each state to be responsible for ensuring that the ambient air quality standards established by the CAA are met by the deadlines prescribed in the CAA. 42 U.S.C. § 7410. Each state is required to establish a State Implementation Plan (SIP) for achieving these standards. *Id.* Maryland’s SIP is provided in Title 2 of the Environment Article. Pursuant to Title 2, the Department of the Environment is directed to divide the State into air quality areas and to set emission standards for each area. MD. ENVIR. §2-302. These standards can be viewed in Title 26, Subtitle 11 of the Code of Maryland Regulations (COMAR).

According to the State’s SIP, Title 2 “does not limit the power of a political subdivision to adopt ordinances, rules, or regulations that set emission standards or ambient air quality standards.” ENVIR § 2-104 (a)(1). This section provides a single caveat: a governing body “may not adopt any ordinance, rule, or regulation that sets an emission standard or ambient air quality standard less stringent than the standards set by the Department...” MD ENVIR § 2-104 (a)(2). If a local governing body would prefer not to impose local regulation, the State law allows the governing body to “ask the Department to adopt rules and regulations that set more restrictive emission standards or ambient air quality standards in that political subdivision.” MD ENVIR § 2-104 (b).

Fav w/ comments

Baltimore's authority to regulate in the interest of resident health and general welfare is provided in Article II of the City Charter, § 27 (police power) and § 47 (general welfare). Article II establishes the legislative powers delegated to Baltimore City by the Maryland General Assembly pursuant to Article XI-A of the Maryland Constitution, § 2, *Cheeks v. Cedlair Corp.*, 287 Md. 595, 598 (1980).

The grant [of legislative powers] vested "full power and authority" in the Mayor and City Council of Baltimore... to "pass ordinances . . . (exercising) within the limits of the City of Baltimore all the power commonly known as the Police Power to the same extent as the State has or could exercise said power within said limits. Also granted to the City was "full power and authority" to pass ordinances deemed expedient "in maintaining the peace, good government, health and welfare of the City of Baltimore.

287 Md. at 600.

Police power is the power of the state "to prescribe regulations to promote the health, peace, morals, education, and good order of the people, and to legislate so as to increase the industries of the state, develop its resources, and add to its wealth and prosperity" *Barbier v. Connolly*, 5 S.Ct. 113 U.S. 27, 31 (1884).

In its broadest sense the police power is said to be the power of government inherent in every sovereignty...In the nature of things, its precise boundaries are difficult if not impossible to define, but, as government exists for the preservation of the general welfare of society ..., its legitimate exercise must bear some actual and definite relation to that object...While [a] mass of litigation has resulted in no single comprehensive definition of the power, ...[we think] the police power is the power inherent in the state to prescribe within the limits of the federal and state Constitutions reasonable regulations necessary to preserve the public order, health, safety, or morals...In many of the cases in which the nature and extent of the police power have been considered, the words "general welfare" have been added to that definition, and there has been a tendency in some courts to treat that expression as enlarging the scope of the police power so as to reach an infinite variety of objects which could not be referred to any one of the objects definitely specified in the definition we have given. But in our opinion the words "general welfare" as used by this court and other courts in defining the scope of the police power do not have that effect, but are synonymous with and referable to the specific objects enumerated in the definition given above.

Tighe v. Osborne, 131 A. 801, 803 (Md. 1925). In reviewing exercises police power, the courts perform a very limited function.

Unless the exercise of the police power by the Legislature is shown to be arbitrary, oppressive or unreasonable, the courts will not interfere with it. [citations omitted]. Moreover, the wisdom or expediency of a law adopted in the exercise of the police power of a state is not subject to judicial review, and such a statute will not be held void if there

are any considerations relating to the public welfare by which it can be supported. [citations omitted].

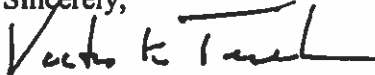
Westchester West No. 2 Ltd. Partnership v. Montgomery County, 276 Md. 448, 454–55 (1975).

Given the provisions of State law, which allow for local regulation of ambient air quality, plus the existence of the City's Article II powers, the Law Department is prepared to approve Council Bill 18-0306 as a lawful exercise of the City's police power, provided that the standards contained in the bill are at least as stringent as those set by the Department of the Environment. Given the Title 2 provisions in State law quoted above, any assertions that the bill's subject matter is preempted by implication by the State law is demonstratively false, a claim that has been made in correspondence received by the Law Department.

The same correspondence claims that the legislation is preempted by conflict. We find this claim also to be unsupportable. Preemption by conflict exists if the legislation facially seeks to ban or otherwise prohibit facilities which are intended to be permitted by state law or, in the alternative, permits facilities intended to be prohibited by state law. *Talbot County v. Skipper*, 329 Md. 481, 487 (1993) ("A local ordinance is pre-empted by conflict when it prohibits an activity which is intended to be permitted by state law, or permits an activity which is intended to be prohibited by state law."). Nothing in this legislation prohibits or bans, or suggest an intent to prohibit or ban, the operation of a commercial solid waste incinerator permitted under State law. If the legislation is adopted, these facilities may still operate in Baltimore. Nonetheless, the City will have adopted standards that govern facility operations.


Provided Council Bill 18-0306 contains standards at least as stringent as those set by the Department of the Environment, the Law Department is prepared to approve the bill for form and legal sufficiency.

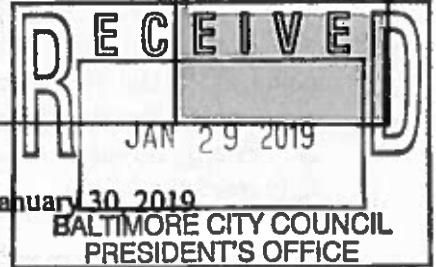
Sincerely,



Victor K. Tervala
Chief Solicitor

cc: Andre M. Davis, City Solicitor
Karen Stokes, Director, Mayor's Office of Government Relations
Jeffrey Amoros, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor
Ashlea Brown, Assistant Solicitor

F R O M	Name & Title	Mary Beth Heller, Esq., Interim ^{Acting} Commissioner	Health Department	
	Agency Name & Address	Health Department 1001 E. Fayette Street Baltimore, Maryland 21202	AGENCY REPORT	
	Subject: Position:	CC #18-0306 FAVORABLE		



To: President and Members
of the City Council
c/o 409 City Hall

forwarded with comments

The Baltimore City Health Department (BCHD) is pleased to have the opportunity to review City Council bill #18-0306, entitled "Health Code – Clean Air Regulation." This legislation will require more stringent monitoring and reporting practices for commercial solid waste incinerators in Baltimore City than existing State standards. Most importantly, #18-0306 will set emission limits on certain harmful pollutants. It includes four provisions to help monitor the activities of waste incinerators: 1. Facilities must hire Air Monitoring Contractors who are charged with monitoring emissions; 2. Facilities must install the latest continuous emissions monitoring systems; 3. Emissions data from waste facilities must be disclosed to the Health Department for it to be shared publically and so that it may be determined whether violations have occurred; and 4. Facilities will be subjected to periodic inspections to ensure all systems are functioning appropriately.

From an operations perspective, BCHD is somewhat impacted. BCHD's Bureau of Environmental Health will be held responsible for certifying Air Monitoring Contractors using criteria developed from public input and best practices, and the Department's Management and Information Systems division will be responsible for data collection and dissemination. Altogether, most of BCHD's responsibilities under this bill can be accomplished with existing resources.

From a public health policy perspective, adopting the standards set in #18-0306 is quickly becoming an imperative as Baltimore City has become one of the most dangerous cities in the U.S. with respect to air quality.¹ According to the EPA, the City is in the top 1% of the most air polluted cities in the United States.² In Baltimore City, there are two incinerators under the purview of #18-0306: Wheelabrator Baltimore and Curtis Bay Energy. While only two incinerators, these facilities are responsible for significant amounts of air pollution in the City. Wheelabrator Baltimore is the 10th largest trash incinerator in the nation and the largest in

¹ "Asthma Has a Profound Effect on People and Communities Nationwide." A&AFA, Asthma and Allergy Foundation of America, 2018, www.aafa.org/media/2119/aafa-2018-asthma-capitals-report.pdf.
² "2014 National Emissions Inventory (NEI) Data." EPA, Environmental Protection Agency, 7 Nov. 2018, www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-data.

Maryland, burning over 2,000 tons of trash daily.³ Due to its high capacity and usage, it is the City's largest air polluter, contributing 36% of all industrial air pollution or three times the amount of the City's next largest polluter.⁴ It is also the leading air polluter for mercury and lead, toxins that have a history of harming Baltimore citizens.⁵

Moreover, Curtis Bay Energy is the largest medical waste incinerator in the country, almost double the size of the second largest, and burns nearly 170 tons of medical waste daily.⁶ It is one of the last 30 medical waste incinerators in the country.⁷ Over the last 30 years, 6000 similar facilities have been replaced by safer alternatives.⁸ Aside from Baltimore City, Curtis Bay Energy serves 21 different states and Canada, leading to added air pollution for Baltimore City residents.⁹

Many of the most harmful air pollutants emitted by solid waste incinerators will be limited by 18-0306. The pollutants listed range from heavy metals to noxious gasses: dioxins and furans, carbon dioxide and carbon monoxide, hydrochloric acid and hydrofluoric acid, nitrogen oxides, sulfur dioxides, particulate matter, volatile organic compounds, polycyclic aromatic hydrocarbons, arsenic, cadmium, chromium, lead, manganese, mercury, nickel, selenium, and zinc. It is particularly important to understand that each of these named pollutants is associated with negative health consequences when inhaled.

A recent study noted that, in 2016, the Baltimore Metropolitan area had more than 100 days of elevated air pollution including ozone and particulate matter.¹⁰ Emissions from solid waste incinerators, including sulfur dioxide, nitrogen oxides, and particulate matter, have been shown to have a significant negative impact on people with lung diseases such as asthma, chronic bronchitis, and emphysema.¹¹ These health impacts include increased airway inflammation, decreased lung function, worsening asthma attacks, and increased likelihood of emergency department visits and hospitalizations – especially for children and people with asthma.¹² One in five children in Baltimore City have asthma, and one in nine adults are also afflicted by the disease.¹³

³ "2014 National Emissions Inventory (NEI) Data." *EPA*, Environmental Protection Agency, 7 Nov. 2018, www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-data.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ Ridlington and Leavitt, "Trouble in the Air: Millions of Americans Breathe Polluted Air." U.S. PIRG, 2018, <https://environmentamerica.org/sites/environment/files/reports/Trouble%20in%20the%20Air%20vUS.pdf>.

¹¹ "Asthma Has a Profound Effect on People and Communities Nationwide." *AAFA*, Asthma and Allergy Foundation of America, 2018, www.aafa.org/media/2119/aafa-2018-asthma-capitals-report.pdf.

¹² "Asthma Has a Profound Effect on People and Communities Nationwide." *AAFA*, Asthma and Allergy Foundation of America, 2018, www.aafa.org/media/2119/aafa-2018-asthma-capitals-report.pdf.

¹³ "Public Health Heroes Spotlight: Chronic Disease Prevention Team's Community Asthma Program." Baltimore City Health Department, 23 Mar. 2018, health.baltimorecity.gov/news/bmore-healthy-blog/2018-03-23-public-health-heroes-spotlight-chronic-disease-prevention-team%E2%80%99s.

For some context, Baltimore City child asthma rates are twice the national average.¹⁴ From a disparities perspective, a 2015 study informs that Black children are 10 times more likely to die due to asthma-related complications as compared to other races, and Black women are 20 percent more likely to have asthma than other women.¹⁵ Altogether, African Americans are more likely to die from asthma-related issues in Baltimore than any other race. Likewise, a 2013 MIT study found that, "[t]he city of Baltimore in particular is characterized by the highest total mortality rate from all combustion sources: about 130 early deaths attributable to PM 2.5 per year per 100,000 inhabitants."¹⁶

Again, 18-0306 will regulate some of the most harmful air borne toxins released through commercial solid waste incinerators in Baltimore City. For example, in the public health field, "dioxin is considered to be the most toxic man-made substance."¹⁷ It is associated with "cancer, birth defects, diabetes, developmental disabilities, sexual reproductive disorders (including endometriosis, small penis, low sperm counts, delayed puberty, and malformed and mixed-sex genitalia), lowered testosterone levels, impaired immune system, allergies, low birth weight, dental defects, loss of intelligence and learning ability, ADHD and increased withdrawn/depressed behavior."¹⁸

Another pollutant emitted by waste incinerators is carbon dioxide. Although it is a natural component of our atmosphere, elevated levels of carbon dioxide in the air can cause difficulty breathing, drowsiness, and toxicity.¹⁹ Similarly, carbon monoxide, another pollutant emitted by incinerators, decreases the level of oxygen that reaches organs and tissues when absorbed into the bloodstream. It is associated with several adverse health effects including chest pain and other cardiovascular symptoms, difficulty breathing, reduced mental alertness, and decreased vision.²⁰ Also of paramount concern for Baltimore City residents are nitrogen oxides, which can be responsible for triggering asthma attacks.²¹ In addition to triggering asthma attacks and furthering the progression of the disease, nitrogen oxides also lead to coughing, choking, nausea, headache, abdominal pain, and difficulty breathing.²²

As mentioned above, commercial solid incinerators are also responsible for emitting various heavy metals that have toxic health effects. Solid waste incinerators increase the levels of these metals in Baltimore City's atmosphere. Among the items regulated in 18-0306, arsenic,

¹⁴ "Asthma Has a Profound Effect on People and Communities Nationwide."

¹⁵ *Ibid.*

¹⁶ Caiazzo, Fabio, et al., "Air Pollution and Early Deaths in the United States. Part I: Quantifying the Impact of Major Sectors in 2005," *Atmospheric Environment*, Volume 79, Pages 198-208, Nov. 2013.

¹⁷ Mocarelli, et. al., "Paternal concentrations of dioxin and sex ratio of offspring," *Lancet*, 2000 May 27;355(9218):1838-9. <http://www.ncbi.nlm.nih.gov/pubmed/10866441> "2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD or dioxin), is commonly considered the most toxic man-made substance."

¹⁸ Center for Health, Environment & Justice, American People's Dioxin Report pp.15-20, 1999. <http://chej.org/wp-content/uploads/Documents/American%20Peoples%20Dioxin%20Report.pdf> (accessed 3/19/2011).

¹⁹ "Carbon Dioxide: Your Environment, Your Health | National Library of Medicine." *U.S. National Library of Medicine*, National Institutes of Health, toxtown.nlm.nih.gov/chemicals-and-contaminants/carbon-dioxide.

²⁰ *Air Quality Index*. Environmental Protection Agency, 2014, www3.epa.gov/airnow/airnow_aqi_brochure_02_14.pdf.

²¹ "Nitrogen Oxides: Your Environment, Your Health | National Library of Medicine." *U.S. National Library of Medicine*, National Institutes of Health, toxtown.nlm.nih.gov/chemicals-and-contaminants/nitrogen-oxides.

²² "Nitrogen Oxides: Your Environment, Your Health | National Library of Medicine." *U.S. National Library of Medicine*, National Institutes of Health, toxtown.nlm.nih.gov/chemicals-and-contaminants/nitrogen-oxides.

when inhaled, “can lead to throat and lung irritation, skin changes, and cancer.”²³ Additionally, cadmium can “lead to coughing, chest pain, throat irritation, lung and kidney damage, seizures, and cancer.”²⁴ Chromium “can cause breathing problems, skin changes, pneumonia, kidney and liver damage, pregnancy complications, and cancer.”²⁵ Manganese, similar to the other heavy metals listed, can cause impaired “neurologic function such as memory and coordination, cough, chest pain, fatigue, and kidney damage.”²⁶

Correspondingly, nickel is a metal that has been associated with irritation of the respiratory tract and cancer.²⁷ Selenium has been associated with negative health effects such as eye irritation, vision changes, difficulty breathing, and liver and kidney damage.²⁸ Zinc, when inhaled, can cause irritation of the throat, cough, difficulty breathing, pulmonary fibrosis, and lung or heart damage.²⁹ Mercury leads to lung irritation, nausea and vomiting, diarrhea, numbness, eye irritation, kidney and brain damage, fetal damage, changes in vision, muscle weakness, and motor and developmental effects in children.³⁰

Lead, a continuous issue in the City, is also released into the air via solid waste incinerators. Over the last two decades, over 65,000 children in Baltimore have been exposed to dangerous levels of lead.³¹ Some of the negative health effects of lead include anemia, irritation of the eyes, headache, tremors, organ damage, nerve disorders, fertility problems, learning and developmental difficulties in children, and cancer.³²

All the above-mentioned pollutants cause an array of negative health consequences. Although some of these pollutants occur naturally or can be attributable to other manmade sources, commercial solid waste incinerators are still a readily identifiable and significant source of toxic emissions. These emissions, in turn, lead to increased asthma rates among Baltimore City residents. Furthermore, the costs of asthma are not limited to individuals-it costs the city of Baltimore 156 million dollars annually in lost economic activity and treatment expenses.³³ For the country, it means 10 million workdays and 14 million school days lost each year.³⁴

²³ “Toxic Substances Portal - Arsenic.” Centers for Disease Control and Prevention, Centers for Disease Control and Prevention, www.atsdr.cdc.gov/toxfaqs/TF.asp?id=19&tid=3.

²⁴ Ibid.

²⁵ Ibid.

²⁶ “CDC - NIOSH Pocket Guide to Chemical Hazards - Manganese Compounds and Fume (as Mn).” Centers for Disease Control and Prevention, Centers for Disease Control and Prevention, www.cdc.gov/niosh/npg/npgd0379.html.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ “Toxic Substances Portal - Chromium.” Centers for Disease Control and Prevention, Centers for Disease Control and Prevention, www.atsdr.cdc.gov/toxfaqs/tf.asp?id=113&tid=24.


³¹ “Baltimore's Toxic Legacy Of Lead Paint.” FiveThirtyEight, FiveThirtyEight, 7 May 2015, fivethirtyeight.com/features/baltimores-toxic-legacy-of-lead-paint/.

³² “Toxic Substances Portal - Chromium.” Centers for Disease Control and Prevention, Centers for Disease Control and Prevention, www.atsdr.cdc.gov/toxfaqs/tf.asp?id=93&tid=22.

³³ “Asthma Has a Profound Effect on People and Communities Nationwide.” AAFA, Asthma and Allergy Foundation of America, 2018, www.aafa.org/media/2119/aafa-2018-asthma-capitals-report.pdf.

³⁴ *Annals of the American Thoracic Society*, news release, Jan. 12, 2018.

Noting the many potential negative health consequences associated with solid waste incinerator emissions, BCHD urges a favorable report on Council Bill #18-0306.

FROM	NAME & TITLE	Rebecca Woods, Esq., Executive Director <i>RW</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Environmental Control Board 1 N. Charles St., Suite 1300, Baltimore, MD 21202		
	SUBJECT	City Council Bill # 18-0306 Health Code – Clean Air Regulation		

DATE:

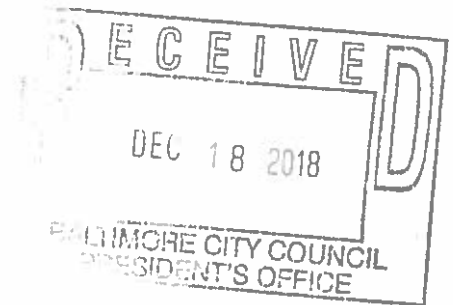
TO

The Honorable President and Members
of the Baltimore City Council

December 18, 2018

The Baltimore City Environmental Control Board (ECB) has been requested to review City Council Bill #18-0306, Health Code – Clean Air Regulation. The purpose of the bill is to regulate the emissions from commercial solid waste incinerators, define certain terms, require the continuous monitoring of certain pollutants, set emissions limits for certain pollutants, require the production and public disclosure of certain emissions reports, require commercial solid waste incinerators to allow certain inspections, establish a certification process for air monitoring contractors, set certain penalties, and set special effective dates.

It is anticipated that the number of citations that will be issued for violations of the relevant provision(s) will have no significant impact on ECB operations. For this reason ECB has no objections to the passage of this bill.



No objection

FROM	NAME & TITLE	Rudolph S. Chow, P.E., Director
	AGENCY NAME & ADDRESS	Department of Public Works 600 Abel Wolman Municipal Building
	SUBJECT	City Council Bill 18-0306

CITY of BALTIMORE MEMO	
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TO

The Honorable President and Members
of the Baltimore City Council
c/o Natawna Austin
Room 400 – City Hall

DATE: January 28, 2019

RECEIVED

JAN 29 2019

BALTIMORE CITY COUNCIL
PRESIDENT'S OFFICE

Comments

I am herein reporting on City Council Bill 18-0306 introduced by Council Member Reisinger, Henry, Costello, Scott, Bullock, Stokes, Burnett, Cohen, Middleton, Dorsey, Pinkett, Sneed, and Clarke.

The purpose of the Bill is to regulate the emissions from commercial solid waste incinerators; define certain terms; require the continuous monitoring of certain pollutants; setting emissions limits for certain pollutants; require the production and public disclosure of certain emissions reports; require commercial solid waste incinerators to allow certain inspections; establish a certification process for air monitoring contractors; set certain penalties; set special effective dates; and generally relating to clean air regulations.

The proposed legislation would establish air quality limits for certain specified pollutants emitted by commercial solid waste incinerators located within the limits of Baltimore City. The specified limits for Mercury and Sulfur Dioxide would have to be met by January 1, 2020 and the specified limits for Dioxins/Furans and Nitrogen Oxides (NOx) would have to be met by January 1, 2022. Continuous monitoring of emissions would be reported in the form of daily reports submitted to an air monitoring contractor.¹ The air monitoring contractor would make these and other reports available to the public on a publicly accessible webpage. In addition, the air monitoring contractor would have to provide reports to the Baltimore City Health Department in the form specified by the Health Commissioner. This monitoring and reporting is presumed to be in addition to any required monitoring and reporting provided by these facilities to the Maryland Department of the Environment. An air monitoring contractor would also be responsible to periodically inspect the continuous emissions monitoring systems no fewer than four (4) times each calendar year to verify that the systems are operating correctly. Inspections would be conducted at the times and intervals chosen by the Health Commissioner. The legislation stipulates civil and criminal penalties for any violation of the provisions or rules or regulations generating from the proposed "Baltimore Clean Air Act". It further stipulates fines and penalties for singular, simultaneous, and continuous violations of the Act.

Based on the definitions in the legislation, there are currently two facilities which would be subject to this legislation: the Medical Waste Incinerator and the Baltimore Refuse Energy Systems Company (BRESKO) waste-to-energy facility owned and operated by Wheelabrator Technologies, Inc. The City of Baltimore has a contractual relationship with BRESKO for acceptance of municipal solid waste collected from City households, small businesses, small non-profits,

¹ The legislation stipulates the requirements that the Baltimore City Health Department must follow to certify air monitoring contractors. Certification could begin as early as six (6) months after the enactment date of the ordinance.

Honorable President and Members
of the Baltimore City Council
January 28, 2019
Page 2

municipal buildings, and some condominium regimes. In CY 2018 the City paid BRESKO \$8,883,499 in tipping fees to dispose of its mixed refuse. The portion of mixed waste that does not go to BRESKO is disposed of at the City-owned Quarantine Road Landfill. As part of the contractual relationship, Baltimore City accepts BRESKO ash for disposal at the Landfill by charging the company a per-ton fee. In FY 2018 the tipping fees the City received for BRESKO ash disposal totaled \$2,513,332. BRESKO collects a City solid waste surcharge from users of the incinerator which is remitted to the City, along with site lease payments, a host fee, and personal and real property taxes; all of which totaled \$7,304,297 in revenue in CY 2018. This information is meant to be informative, but should not be considered a substitute for a detailed fiscal impact analysis that should involve the assistance of the Department of Finance.


Should City Council Bill 18-0306 be enacted, significant changes to the BRESKO facility would be necessary to meet the emission levels for NOx and other pollutants listed in the legislation. It would be expected that, if Wheelabrator decided to invest in the required improvements, the facility would have to be shut down for some indeterminate period. Wheelabrator could also decide to shut the facility down completely. The City would have to decide what the most cost-effective and feasible option or options would be for redirecting its disposal of approximately 200,000 tons of trash per year in the short- and long-term. This Department has just begun its study of the solid waste management processes and the opportunities for investing in new and more diversified means to manage the waste stream in the future, which will include strategies and programs to reduce waste generated and to increase recycling and composting. The Department is also in the midst of a State permit process that will allow for the expansion of the Quarantine Road Landfill. Disposal of all 200,000 tons of waste at the Landfill would result in a drastically reduced life capacity, and depending on how long this sole disposal option would have to be used, could overtake the capacity before expansion work is completed. Under these circumstances, the City might have to decide to stop accepting waste from private haulers and non-profits, in order to conserve space for the waste the City must collect, thus eliminating tipping fee revenue.

Municipal landfills in neighboring counties could be potential options for alternative disposal sites, assuming those counties would be amenable to accepting large quantities of waste and at what cost. Other entities using the BRESKO facility would also be looking for disposal options, which could drive up tipping fees or cause counties to turn outside users away to preserve their landfill space. Currently, tipping fees at other Maryland landfills range from \$67 to \$100 per ton. The City does not pay tipping fees for waste disposed at the City-owned landfill but does pay a \$54.95 per ton tipping fee for the waste disposed at BRESKO. In addition to the extra expense of tipping fees, trucking the trash out of the City or out of state to a landfill or other disposal facility requires: additional transportation time; more equipment, vehicles, fuel, and drivers; and more transfer facilities to manage the trash. These investments of funds would be in addition to the development of any alternative facilities to divert or dispose of City-generated trash in the long-term.

The Department of Public Works wishes to point out that any interim or long-term impact of enacting City Council Bill 18-0306 will require the redirection of funding to effectively manage mixed refuse in a safe manner.


Rudolph S. Chow, P.E.
Director

pp. 600M

FROM	NAME & TITLE	MIRIAM AVINS & REBBECA BAKRE <i>Co-Chairs, Commission on Sustainability</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 th FLOOR		
	SUBJECT	CITY COUNCIL BILL #18-0306 – Health Code - Clean Air Regulation		

DATE:

TO

January 29, 2019

The Honorable President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

The Commission on Sustainability is in receipt of City Council Bill #18-0306 for the purpose of regulating the emissions from commercial solid waste incinerators; requiring the continuous monitoring of certain pollutants; setting emissions limits for certain pollutants; requiring the production and public disclosure of certain emissions reports; requiring commercial solid waste incinerators to allow certain inspections; and generally relating to clean air regulations.

The framework and intent of this bill addresses a goal of the Baltimore Sustainability Plan as approved by City Council on March 2, 2009: Pollution Prevention Goal #1: Improve Baltimore's air quality and eliminate Code Red days

The framework and intent also address efforts outlined in the new 2019 Sustainability Plan (which has been approved by the Sustainability Commission but not yet adopted by the Planning Commission or the City Council):

Clean Air Strategy #1: 1. Reduce emissions from industrial operations to reduce harm to people living nearby.

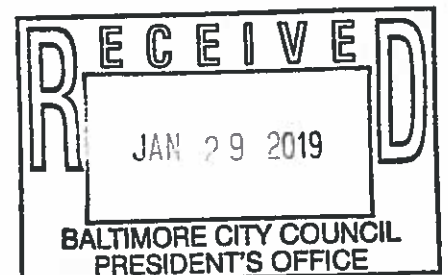
- Action 1: Encourage state-of-the-art pollution controls on all "point source pollution" emitters and improve review of the effect of new permit applications for air pollution sources, particularly those in and near zip codes with high asthma hospitalization rates.

On January 29, 2019, the Commission on Sustainability finalized a vote regarding this legislation: Support/In-Favor: 16 Opposed: 0 Abstain: 1

It was the consensus of the Commission on Sustainability to support City Council Bill # 18-0306.

cc: Mr. Pete Hammen, Chief Operating Officer
Mr. Jim Smith, Chief of Strategic Alliances
Ms. Karen Stokes, Mayor's Office
Mr. Jeff Amoros, Mayor's Office
Ms. Laurie Feinberg, Department of Planning

favorable



City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland
21202

Meeting Minutes - Final

Land Use and Transportation Committee

Wednesday, January 30, 2019

5:00 PM

Du Burns Council Chamber, 4th floor, City Hall

18-0306

CHARM TV 25

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

Present 7 - Member Edward Reisinger, Member Sharon Green Middleton, Member Mary Pat Clarke, Member Eric T. Costello, Member Ryan Dorsey, Member Leon F. Pinkett III, and Member Robert Stokes Sr.

ITEMS SCHEDULED FOR PUBLIC HEARING

18-0306

Health Code - Clean Air Regulation

For the purpose of regulating the emissions from commercial solid waste incinerators; defining certain terms; requiring the continuous monitoring of certain pollutants; setting emissions limits for certain pollutants; requiring the production and public disclosure of certain emissions reports; requiring commercial solid waste incinerators to allow certain inspections; establishing a certification process for air monitoring contractors; setting certain penalties; setting special effective dates; and generally relating to clean air regulations.

Sponsors: Edward Reisinger, Bill Henry, Eric T. Costello, Brandon M. Scott, John T. Bullock, Robert Stokes, Sr., Kristerfer Burnett, Zeke Cohen, Sharon Green Middleton, Ryan Dorsey, Leon F. Pinkett, III, Shannon Sneed, Mary Pat Clarke

A motion was made by Member Dorsey, seconded by Member Clarke, that the bill be recommended favorably with amendment. The motion carried by the following vote:

Yes: 7 - Member Reisinger, Member Middleton, Member Clarke, Member Costello, Member Dorsey, Member Pinkett III, and Member Stokes Sr.

ADJOURNMENT



HEARING NOTES

Bill: 18-0306

Health Code - Clean Air Regulation

Committee: Land Use and Transportation
Chaired By: Councilmember Edward Reisinger

Hearing Date: January 30, 2019
Time (Beginning): 5:00 PM
Time (Ending): 7:48 PM
Location: Clarence "Du" Burns Chamber
Total Attendance: ~ 180
Committee Members in Attendance:
Reisinger, Edward, Chairman
Middleton, Sharon, Vice Chair
Clarke, Mary Pat
Costello, Eric
Dorsey, Ryan
Pinkett, Leon
Stokes, Robert

Bill Synopsis in the file?	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> n/a
Attendance sheet in the file?	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> n/a
Agency reports read?	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> n/a
Hearing televised or <u>audio-digitally</u> recorded?.....	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> n/a
Certification of advertising/posting notices in the file?.....	<input type="checkbox"/> yes	<input type="checkbox"/> no	<input checked="" type="checkbox"/> n/a
Evidence of notification to property owners?	<input type="checkbox"/> yes	<input type="checkbox"/> no	<input checked="" type="checkbox"/> n/a
Final vote taken at this hearing?	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> n/a

Motioned by:Councilmember Dorsey, Ryan
 Seconded by.....Councilmember Clarke, Mary Pat
 Final Vote Favorable with Amendment

Major Speakers

(This is not an attendance record.)

- Mr. Victor Tervalá, Department of Law
 - Mr. D'Paul Nibber, Health Department
 - Dr. Shelly Choo, Health Department
 - Ms. Margaret, Schnitzer, Health Department
 - Ms. Brittany Vendryes, Environmental Control Board
 - Ms. Lisa McNeilly, Office of Sustainability
 - Mr. Jeff Amoros, Office of the Mayor
 - Ms. Kristen Oldendorf, Department Public Works
 - Mr. Michael Ewall, Executive Director, Energy Justice Network
 - Mr. Jim Connolly, Vice President of Environment, Health and Safety, Wheelabrator Technologies
 - Mr. Tim Henderson, Environmental Attorney, BRESO
 - Mr. Jack Perko, President and CEO, Curtis Bay Medical and Waste Services
-

Major Issues Discussed

1. Councilman Reisinger introduced committee members and read the bill's title and purpose. He explained the reason for introduction of the bill.
2. Mr. Victor Tervalá presented the Law Department's report in favor of the bill. He stated that the City Council has ample authority to adopt the bill.
3. Mr. D'Paul Nibber presented the Health Department's report in favor of the bill. The Health Department is focused on identification of public health risks and prevention. He introduced representatives from the Health Department: Dr. Shelly Choo, a Senior Medical Advisor, and Margaret Schnitzer, Director of Community Asthma Program. They testified about exposure to substances/pollutants, asthma and other health risks.
4. Ms. Brittany Vanderyes confirmed the report of no objection for the Environmental Control Board.
5. Ms. Lisa McNeilly testified in support of the report from the Office of Sustainability.
6. Ms. Kristen Oldendorf presented the Department of Public Work's (DPW) report and position of no objection on the bill. She also provided general information about waste management and disposal and recycling. Committee and Council members questioned Ms. Oldendorf extensively about:
 - costs associated with waste management and disposal
 - the need for in-depth fiscal notes on legislative matters
 - a study (due in 2019) on the management of waste streams (waste and recycling sources) and alternative programs to improve management and disposal
 - use of DPW's revenue sources
 - the impact that transporting waste out of city would have on health care facilities
 - a timeline and plans for educational initiatives and alternative methods of trash disposal and recycling
 - recycling goals – 35%

- 7. The committee listened to public testimony. Some speakers provided written testimony.
- 8. The committee voted to amend the bill.
- 9. The committee voted to recommend the bill favorable with amendments.
- 10. The hearing was adjourned.

Further Study

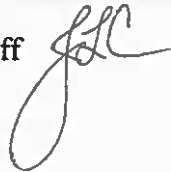
Was further study requested?
If yes, describe.

Yes No

Committee Vote:

Reisinger, Edward, Chairman.....	Yea
Middleton, Sharon, Vice Chair.....	Yea
Clarke, Mary Pat.....	Yea
Costello, Eric.....	Yea
Dorsey, Ryan.....	Yea
Pinkett, Leon.....	Yea
Stokes, Robert:	Yea

Jennifer L. Coates, Committee Staff



Date: January 31, 2018

cc: Bill File
OCS Chrono File



CITY OF BALTIMORE
CITY COUNCIL HEARING ATTENDANCE RECORD

****Televised****

Committee: Land Use and Transportation | Chairperson: Edward Reisinger
 Date: January 30, 2019 | Time: 5:00 PM | Place: Clarence "Du" Burns Chambers
 Subject: Ordinance - Health Code - Clean Air Regulation | CC Bill Number: 18-0306

PLEASE PRINT

IF YOU WANT TO TESTIFY PLEASE CHECK HERE



FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	TESTIFY	FOR	AGAINST	YES	NO
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tina	Connolly		1801 Annapolis Rd	21280		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Madison	Pateward		1801 Annapolis Rd	21230		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brad	Keller		1801 Annapolis Rd	21230		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dan	Burndy		1801 Annapolis Rd	21230		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob	Veneto		1801 Annapolis Rd	21230		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Adam	Strobel		1801 Annapolis Rd	21230		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rodney	Isaacs		1801 Annapolis Rd	21230		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed	Winkler		1801 Annapolis Rd	21230		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin	Hayner		1801 Annapolis Rd	21230		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gordon	Southman		1801 Annapolis Rd	21230		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(*) NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730. FAX: 410-396-8483.



**CITY OF BALTIMORE
CITY COUNCIL HEARING ATTENDANCE RECORD**

Televised

Committee: Land Use and Transportation Chairperson: Edward Reisinger
 Date: January 30, 2019 Time: 5:00 PM Place: Clarence "Du" Burns Chambers
 Subject: Ordinance - Health Code - Clean Air Regulation CC Bill Number: 18-0306

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FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	TESTIFY	FOR	AGAINST	YES	NO	WHAT IS YOUR POSITION ON THIS BILL?	LOBBYIST: ARE YOU REGISTERED IN THE CITY (*)
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Ryan	Henderson		2661 River Rd	21401		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Frank	Michaels		2700 Wilkes Blvd, Arlington VA			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Jack	Perko		Curtis Bay Medical			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
HEARNY	Spencer		"	"		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
KAY	Cooper		"	"		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Melvin	Gibson-Bey		"	"		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Kevin	Gornish		"	"		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
John	KUMM		"	"		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Ken	SICKSON		"	"		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
TRUDI	ZIKOVICH		Unitford, Taylor + Preston			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

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**CITY OF BALTIMORE
CITY COUNCIL HEARING ATTENDANCE RECORD**

****Televised****

Committee: Land Use and Transportation Chairperson: Edward Reisinger
 Date: January 30, 2019 Time: 5:00 PM Place: Clarence "Du" Burns Chambers
 Subject: Ordinance - Health Code - Clean Air Regulation CC Bill Number: 18-0306

PLEASE PRINT

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FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	TESTIFY	FOR	AGAINST	YES	NO
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kevin	Switzer	2634	North Clark Street	21218	kevin@switzer.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kevin	Kriescher	4	E 32 ST	21218	kkriescher@hotmail.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Colin	Brineman	15	Charles Plz Apt 701	21201	colin.brineman@gmail.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Solomon	Brooks		McDonough Dr	21244	SolomonBrooks13@gmail.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Chris	Kent		Baltimore Hydraulics	21218	ckr200@calbhyd.com	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Brian	Morris	10	E LEE HIGH	21202	patrickmorrisk@gmail.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Shirley	Cambridge					<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Dorothy	Martinez		1564 PLUMST			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Greg	Sawell		1123 murree circle			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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**CITY OF BALTIMORE
CITY COUNCIL HEARING ATTENDANCE RECORD**

Televised

Committee: Land Use and Transportation Chairperson: Edward Reisinger
 Date: January 30, 2019 Time: 5:00 PM Place: Clarence "Du" Burns Chambers
 Subject: Ordinance - Health Code - Clean Air Regulation CC Bill Number: 18-0306

PLEASE PRINT

IF YOU WANT TO TESTIFY PLEASE CHECK HERE



FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	WHAT IS YOUR POSITION ON THIS BILL?		(*) LOBBYIST: ARE YOU REGISTERED IN THE CITY	
						TESTIFY	FOR	AGAINST	YES
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Deborah	Kleinmann	1208	Regester Ave.	21239	spiceraronic@gmail.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ned	Soldman	3362	Tennyson NW	20015	N.Soldman@DSL.org	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kathy	Patty	1901	Park Ave	21217	kp@pattykate.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Green	Dubois		CPSK	21209	gdubois@jsh.edu	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
James	Alston	2343	Annapolis Road	21230	jams.alston@bryohr.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tammy	Alston	911	Shelburne Rd	21015	talgalba@qmail.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kodette	Jones	4213	Pasadena	21224	rodette76@msn.com	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Margaret	Schmizer	1001	BCHAD / E Fought St	21202	margaret.schmizer@baltimorecity.gov	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Yinka	Boke-George			21202	YinkaBoke@cityofbaltimore.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(*) NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730. FAX: 410-396-8483.



**CITY OF BALTIMORE
CITY COUNCIL HEARING ATTENDANCE RECORD**

Televised

Committee: Land Use and Transportation Chairperson: Edward Reisinger
 Date: January 30, 2019 Time: 5:00 PM Place: Clarence "Du" Burns Chambers
 Subject: Ordinance - Health Code - Clean Air Regulation CC Bill Number: 18-0306

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FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	TESTIFY	FOR	AGAINST	YES	NO
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Richard	Ochs	2913	Doverland Ave	21214	rjochs@comcast.net	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kristyn	Olander		PPW			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Keisha	Allen	2218	Sidney Avenue	21230	kajia.75@aol.com	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(*) NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730; FAX: 410-396-8483.

City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland
21202

Meeting Agenda - Final

Land Use and Transportation Committee

Wednesday, January 30, 2019

5:00 PM

Du Burns Council Chamber, 4th floor, City Hall

18-0306

CHARM TV 25

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

ITEMS SCHEDULED FOR PUBLIC HEARING

18-0306

Health Code - Clean Air Regulation

For the purpose of regulating the emissions from commercial solid waste incinerators; defining certain terms; requiring the continuous monitoring of certain pollutants; setting emissions limits for certain pollutants; requiring the production and public disclosure of certain emissions reports; requiring commercial solid waste incinerators to allow certain inspections; establishing a certification process for air monitoring contractors; setting certain penalties; setting special effective dates; and generally relating to clean air regulations.

Sponsors:

Edward Reisinger, Bill Henry, Eric T. Costello, Brandon M. Scott, John T. Bullock, Robert Stokes, Sr., Kristerfer Burnett, Zeke Cohen, Sharon Green Middleton, Ryan Dorsey, Leon F. Pinkett, III, Shannon Sneed, Mary Pat Clarke

ADJOURNMENT

THIS MEETING IS OPEN TO THE PUBLIC





**BALTIMORE CITY COUNCIL
LAND USE AND TRANSPORTATION COMMITTEE**

Mission Statement

On behalf of the Citizens of Baltimore City, the mission of the Land Use and Transportation Committee is to review and support responsible development and zoning initiatives to ensure compatibility with the aim of improving the quality of life for the diverse population of Baltimore City.

**The Honorable Edward Reisinger
Chairperson**

PUBLIC HEARING

TELEVISED

Wednesday, January 30, 2019

5:00 PM

Clarence "Du" Burns Council Chambers

***City Council Bill # 18-0306
Health Code - Clean Air Regulation***

CITY COUNCIL COMMITTEES

BUDGET AND APPROPRIATIONS

Eric Costello – Chair
Leon Pinkett – Vice Chair
Bill Henry
Sharon Green Middleton
Brandon M. Scott
Isaac “Yitzy” Schleifer
Shannon Sneed
Staff: Marguerite Currin

EDUCATION AND YOUTH

Zeke Cohen – Chair
Mary Pat Clarke – Vice Chair
John Bullock
Kristerfer Burnett
Ryan Dorsey
Staff: Matthew Peters

EXECUTIVE APPOINTMENTS

Robert Stokes – Chair
Kristerfer Burnett – Vice Chair
Mary Pat Clarke
Zeke Cohen
Isaac “Yitzy” Schleifer
Staff: Marguerite Currin

HOUSING AND URBAN AFFAIRS

John Bullock – Chair
Isaac “Yitzy” Schleifer – Vice Chair
Kristerfer Burnett
Bill Henry
Shannon Sneed
Zeke Cohen
Ryan Dorsey
Staff: Richard Krummerich

JUDICIARY AND LEGISLATIVE INVESTIGATIONS

Eric Costello – Chair
Mary Pat Clarke – Vice Chair
John Bullock
Leon Pinkett
Edward Reisinger
Brandon Scott
Robert Stokes
Staff: Matthew Peters

LABOR

Shannon Sneed – Chair
Robert Stokes – Vice Chair
Eric Costello
Bill Henry
Mary Pat Clarke
Staff: Samuel Johnson

LAND USE AND TRANSPORTATION

Edward Reisinger – Chair
Sharon Green Middleton – Vice Chair
Mary Pat Clarke
Eric Costello
Ryan Dorsey
Leon Pinkett
Robert Stokes
Staff: Jennifer Coates

PUBLIC SAFETY

Brandon Scott – Chair
Ryan Dorsey – Vice Chair
Kristerfer Burnett
Shannon Sneed
Zeke Cohen
Leon Pinkett
Isaac “Yitzy” Schleifer
Staff: Richard Krummerich

TAXATION, FINANCE AND ECONOMIC DEVELOPMENT

Sharon Green Middleton – Chair
Leon Pinkett – Vice Chair
Eric Costello
Edward Reisinger
Robert Stokes
Staff: Samuel Johnson
- Larry Greene (pension only)



BILL SYNOPSIS

Committee: Land Use and Transportation

Bill 18-0306

Health Code - Clean Air Regulation Highway

Sponsor: Councilmember Reisinger

Introduced: November 19, 2018

Purpose:

For the purpose of regulating the emissions from commercial solid waste incinerators; defining certain terms; requiring the continuous monitoring of certain pollutants; setting emissions limits for certain pollutants; requiring the production and public disclosure of certain emissions reports; requiring commercial solid waste incinerators to allow certain inspections; establishing a certification process for air monitoring contractors; setting certain penalties; setting special effective dates; and generally relating to clean air regulations.

Effective: 18 months after day of enactment

Hearing Date/Time/Location: January 30, 2019 /5:00 p.m./Clarence "Du" Burns Chambers

Agency Reports

Department of Law
Environmental Control Board
Health Department
Department of Public Works

Favorable/Comments
No Objection

Analysis

Current Law

By adding

Article - Health

Section(s) 8-110 to 8-126, to be under a new designation entitled
"Part II. Commercial Solid Waste Incinerators"

Baltimore City Code
(Edition 2000)

By repealing and reordaining, without amendments

Article - Health

Section(s) 8-301- *Enforcement by Citation*

Baltimore City Revised Code
(Edition 2000)

By repealing and reordaining, with amendments

Article - Health

Section(s) 8-302 - *Penalties*

Baltimore City Revised Code
(Edition 2000)

By repealing and reordaining, with amendments

Article 1 - *Mayor, City Council, and Municipal Agencies*

Subtitle 40 - *Environmental Control Board*

Section 14 – *Violations to which subtitle applies*

(e) *Provisions and penalties enumerated*

(7) *Health Code*

Title 8 – *Air Pollution,*

Baltimore City Code,

Baltimore City Code

Article 1 - *Mayor, City Council, and Municipal Agencies*

Subtitle 41 - *Civil Citations*

Section 14 – *Offenses*

(6) *Health Code*

Title 8 – *Air Pollution*

Background

Currently, the Baltimore City Health Code, Title 8: Air Pollution, prohibits any source that contributes to air pollution or that exceeds emission standards set by federal and state law/regulations or the Health Commissioner. Bill 18-0306 would strengthen Baltimore City's Health Code by defining certain terms and creating the "Baltimore Clean Air Act" to regulate all commercial solid waste incinerators located in Baltimore City.

In addition, the new regulations would also :

(1) Require continuous monitoring of certain pollutants

Each facility would be required to contract with a certified air monitoring contractor, as well as, install, operate and maintain continuous emissions monitoring (CEM) systems equipment.

The CEMS would be required to operate at all times that the facility is operating. Facilities would also be required to measure and disclose smokestack emissions for the following pollutants:

• Dioxins and Furans	• Particulate Matter
• Carbon Dioxide & Carbon Monoxide	• Volatile Organic Compounds
• Hydrochloric Acid & Hydrofluoric Acid	• Polycyclic Aromatic Hydrocarbons
• Nitrogen Oxides	• Arsenic, Cadmium, Chromium, Lead, Manganese, Mercury, Nickel, Selenium, and Zinc
• Sulfur Dioxides	

(2) Set emission limits for certain pollutants

The bill sets specific dates for each facility to meet certain emission limits for certain pollutants:

- January 1, 2020 – mercury and sulfur dioxide
- January 1, 2022 – dioxins/furans (PCDD/F)

Facilities would also have to meet more stringent requirements if adopted by the U.S. Environmental Protection Agency or the State of Maryland.

(3) Require the production and public disclosure of certain emissions reports

Facilities would be required to provide a daily report to its air monitoring contractor detailing daily emissions of pollutants and the reason for any CEMS downtime. The data would become property of Baltimore City.

The bill also requires that data from the daily emissions reports must be disclosed to the public via an accessible website. The air monitor contractor must also provide reports to the City's Health Commissioner.

(4) Require commercial solid waste incinerators to allow certain inspections

The air monitor contractor must conduct at least 4 inspections annually, as specified by the Health Commissioner, to verify proper operation of the CEMS.

(5) Establish a certification process for air monitoring contractors

To be certified by the City's Health Commissioner, air monitoring contractors would have to demonstrate capabilities for:

- Procuring, developing and installing CEMS equipment at a facility
- Performing regular inspections
- Developing software utilities to capture and publically display CEMS data

(6) Set certain penalties

In addition to other civil or criminal remedies or enforcement procedures, enforcement of the new regulations may be by issuance of an environmental citation or a civil citation. Violators would be guilty of a misdemeanor and subject to a fine of not more than \$1000 for each offense.

Additional Information

Fiscal Note: Not Available

Information Source(s): Bill 18-0306

Analysis by: Jennifer L. Coates
Analysis Date: January 28, 2019



Direct Inquiries to: (410) 396-1260

**CITY OF BALTIMORE
COUNCIL BILL 18-0306
(First Reader)**

Introduced by: Councilmembers Reisinger, Henry, Costello, Scott, Bullock, Stokes, Burnett,
Cohen, Middleton, Dorsey, Pinkett, Sneed, Clarke

Introduced and read first time: November 19, 2018

Assigned to: Land Use and Transportation Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department, Environmental
Control Board, Department of Public Works

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Health Code – Clean Air Regulation**

3 FOR the purpose of regulating the emissions from commercial solid waste incinerators; defining
4 certain terms; requiring the continuous monitoring of certain pollutants; setting emissions
5 limits for certain pollutants; requiring the production and public disclosure of certain
6 emissions reports; requiring commercial solid waste incinerators to allow certain inspections;
7 establishing a certification process for air monitoring contractors; setting certain penalties;
8 setting special effective dates; and generally relating to clean air regulations.

9 BY adding

10 Article - Health

11 Section(s) 8-110 to 8-126, to be under a new designation entitled

12 "Part II. Commercial Solid Waste Incinerators"

13 Baltimore City Code

14 (Edition 2000)

15 BY repealing and reordaining, without amendments

16 Article - Health

17 Section(s) 8-301

18 Baltimore City Revised Code

19 (Edition 2000)

20 BY repealing and reordaining, with amendments

21 Article - Health

22 Section(s) 8-302

23 Baltimore City Revised Code

24 (Edition 2000)

25 BY repealing and reordaining, with amendments

26 Article 1 - Mayor, City Council, and Municipal Agencies

27 Section(s) 40-14(e)(7)(Title 8) and 41-14(6)(Title 8)

28 Baltimore City Code

29 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 18-0306

1 SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the
2 Laws of Baltimore City read as follows:

3 Baltimore City Code

4 Article . Health

5 Title 8. Air Pollution

6 Subtitle 1. Prohibited Emissions

7 PART II. COMMERCIAL SOLID WASTE INCINERATORS

8 § 8-110. SHORT TITLE AND PURPOSE.

9 (A) *SHORT TITLE.*

10 THIS PART II SHALL BE KNOWN AND MAY BE CITED AS THE "BALTIMORE CLEAN AIR ACT"

11 (B) *PURPOSE.*

12 THE PURPOSE AND INTENT OF THIS PART II IS TO ENSURE THAT ACCURATE AND COMPLETE
13 INFORMATION IS AVAILABLE TO THE CITY AND GENERAL PUBLIC ABOUT POLLUTANTS
14 RELEASED FROM COMMERCIAL SOLID WASTE INCINERATORS WITHIN THE CITY AND TO
15 EXERCISE THE AUTHORITY GRANTED TO THE CITY UNDER THE MARYLAND ENVIRONMENT
16 CODE.

17 § 8-111. DEFINITIONS.

18 (A) *IN GENERAL.*

19 THE FOLLOWING WORDS AND PHRASES WHEN USED WITHIN THIS PART II, UNLESS THE
20 CONTEXT CLEARLY INDICATES OTHERWISE, SHALL HAVE THE MEANING ASCRIBED TO THEM
21 IN THIS SECTION.

22 (B) *AIR MONITORING CONTRACTOR.*

23 "AIR MONITORING CONTRACTOR" MEANS AN ENVIRONMENTAL ENGINEER CERTIFIED BY
24 THE CITY TO DESIGN, INSTALL, OPERATE, AND MAINTAIN THE CONTINUOUS EMISSIONS
25 MONITORING SYSTEMS REQUIRED BY THIS PART II.

26 (C) *COMMERCIAL SOLID WASTE INCINERATOR OR FACILITY -*

27 "COMMERCIAL SOLID WASTE INCINERATOR" OR "FACILITY" MEANS ANY FACILITY IN
28 BALTIMORE CITY THAT PRODUCES ENERGY OR DISPOSES OF WASTE BY COMBUSTING A
29 SOLID FUEL OR WASTE, OR GASES PRODUCED ON-SITE FROM THE GASIFICATION OR
30 PYROLYSIS OF A SOLID FUEL OR WASTE, AND WHICH IS CAPABLE OF PROCESSING AT LEAST
31 25 TONS OF SOLID FUEL OR WASTE PER DAY.

Council Bill 18-0306

1 (D) *CONTINUOUS EMISSIONS MONITORING SYSTEM OR CEMS.*

2 (1) *IN GENERAL.*

3 "CONTINUOUS EMISSIONS MONITORING SYSTEM" OR "CEMS" MEANS A POLLUTION
4 MONITORING SYSTEM CAPABLE OF SAMPLING, CONDITIONING, ANALYZING, AND
5 PROVIDING A RECORD OF EMISSIONS AT FREQUENT INTERVALS THAT MEETS U.S.
6 ENVIRONMENTAL PROTECTION AGENCY OR MARYLAND DEPARTMENT OF THE
7 ENVIRONMENT DATA ACQUISITION AND AVAILABILITY REQUIREMENTS.

8 (2) *SAMPLING FREQUENCY.*

9 EXCEPT AS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, THE SAMPLING
10 FREQUENCY CAPABILITY SUFFICIENT TO QUALIFY A SYSTEM AS A CEMS FOR THE
11 PURPOSES OF THIS PART II MUST AT A MINIMUM DELIVER A MONITORING SAMPLE:

12 (I) ONCE PER MINUTE; OR

13 (II) ANY LESSER FREQUENCY OF INTERVAL, UP TO NO LESS THAN ONCE PER HOUR,
14 THAT PROVIDES SUFFICIENT DATA FOR A DIRECT DETERMINATION OF
15 COMPLIANCE WITH ALL APPLICABLE EMISSION LIMITATIONS IMPOSED BY THIS
16 PART II.

17 (3) *DIOXIN AND FURAN SAMPLING.*

18 IN THE CASE OF DIOXINS AND FURANS, LONG-TERM SAMPLING EQUIPMENT MAY BE
19 USED IF REAL-TIME MONITORS ARE NOT COMMERCIALY AVAILABLE, SO LONG AS
20 YEAR-ROUND MONITORING IS STILL ACHIEVED THROUGH BACK-TO-BACK USE OF
21 LONG-TERM MONTHLY SAMPLES.

22 (E) *"PERSON".*

23 "PERSON" MEANS:

24 (1) AN INDIVIDUAL;

25 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
26 KIND;

27 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
28 REPRESENTATIVE OF ANY KIND.

29 (F) *SOLID FUEL OR WASTE.*

30 "SOLID FUEL" OR "WASTE" MEANS ANY SOLID WASTE, DISCARDED MATERIAL,
31 RECYCLABLE MATERIALS, SLUDGES, BY-PRODUCTS, COMMERCIAL CHEMICAL PRODUCTS,
32 MUNICIPAL WASTE, HAZARDOUS WASTE, BIOMASS, PROCESSED DEBRIS, SPECIAL MEDICAL
33 WASTE, STERILIZED SPECIAL MEDICAL WASTE, SEWAGE SLUDGE, SCRAP TIRES, AUTO
34 SHREDDER RESIDUE, REFUSE-DERIVED FUEL, PROCESSED ENGINEERED FUEL, OR SOLID FUEL
35 PRODUCED FROM MUNICIPAL WASTE.

Council Bill 18-0306

1 (G) TEQ_{DF}-WHO₉₈ -

2 "TEQ_{DF}-WHO₉₈" MEANS A UNIT OF MEASUREMENT FOR DIOXINS AND FURANS,
3 STANDARDIZED TO TOXIC EQUIVALENTS, CALCULATED IN ACCORDANCE WITH THE WORLD
4 HEALTH ORGANIZATION'S 1998 METHOD.

5 § 8-112. SCOPE.

6 ALL COMMERCIAL SOLID WASTE INCINERATORS LOCATED WITHIN BALTIMORE CITY ARE
7 SUBJECT TO THE REQUIREMENTS OF THIS PART II.

8 § 8-113. RULES AND REGULATIONS.

9 (A) *HEALTH COMMISSIONER TO ADOPT.*

10 THE HEALTH COMMISSIONER MAY ADOPT RULES AND REGULATIONS TO IMPLEMENT THIS
11 PART II.

12 (B) *FILING WITH LEGISLATIVE REFERENCE.*

13 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS PART II MUST BE FILED
14 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

15 § 8-114. POLLUTANTS TO BE CONTINUOUSLY MONITORED.

16 EACH FACILITY MUST, AT ITS OWN EXPENSE, CONTRACT WITH AN AIR MONITORING
17 CONTRACTOR CERTIFIED BY THE HEALTH COMMISSIONER IN ACCORDANCE WITH § 8-124
18 {"AIR MONITORING CONTRACTOR CERTIFICATION"} TO INSTALL, OPERATE, AND MAINTAIN
19 CONTINUOUS EMISSIONS MONITORING SYSTEMS ("CEMS") EQUIPMENT TO MONITOR,
20 MEASURE, AND DISCLOSE THE SMOKESTACK EMISSION OF THE FOLLOWING POLLUTANTS:

- 21 (1) DIOXINS AND FURANS, AS MEASURED AT A POINT, AFTER ALL AIR POLLUTION CONTROL
22 DEVICES, WHERE THE EXHAUST GASES HAVE COOLED TO BELOW 200 DEGREES
23 CENTIGRADE;
- 24 (2) CARBON DIOXIDE (CO₂) AND CARBON MONOXIDE (CO);
- 25 (3) HYDROCHLORIC ACID (HCL) AND HYDROFLUORIC ACID (HF);
- 26 (4) NITROGEN OXIDES (NOX);
- 27 (5) SULFUR DIOXIDES (SO₂);
- 28 (6) PARTICULATE MATTER (PM);
- 29 (7) VOLATILE ORGANIC COMPOUNDS (VOCs);
- 30 (8) POLYCYCLIC AROMATIC HYDROCARBONS (PAHS); AND

Council Bill 18-0306

(9) ARSENIC, CADMIUM, CHROMIUM (VI), LEAD, MANGANESE, MERCURY, NICKEL,
SELENIUM, AND ZINC.

§ 8-115. MONITORING SYSTEM TO BE CONTINUOUSLY ACTIVE.

(A) *IN GENERAL.*

A FACILITY'S CEMS MUST BE OPERATIONAL AT ALL TIMES THAT THE FACILITY IS
OPERATING.

(B) *GAPS OF MORE THAN 30 MINUTES A VIOLATION.*

CEMS DOWNTIME THAT EXCEEDS 30 CONSECUTIVE MINUTES WHILE A FACILITY IS
OPERATING ARE A VIOLATION OF THIS SECTION.

§ 8-116. EMISSION LIMITS.

(A) *LIMITS ON JANUARY 1, 2020.*

STARTING JANUARY 1, 2020, EACH FACILITY MUST MEET THE FOLLOWING POLLUTION
LIMITS:

- | | |
|--|--|
| (1) MERCURY: | 15 MICROGRAMS PER DRY STANDARD CUBIC METER
(μ G/DSCM) CORRECTED AT 7% O ₂ |
| (2) SULFUR DIOXIDE (SO ₂): | 18 PARTS PER MILLION DRY VOLUME (PPMVD)
CORRECTED AT 7% O ₂ (24 HOUR GEOMETRIC MEAN) |

(B) *LIMITS ON JANUARY 1, 2022.*

STARTING JANUARY 1, 2022, IN ADDITION TO THE LIMITS IMPOSED BY SUBSECTION (B) OF THIS
SECTION, EACH FACILITY MUST MEET THE FOLLOWING POLLUTION LIMITS:

- | | |
|------------------------------|---|
| (1) DIOXINS/FURANS (PCDD/F): | 2.6 NANOGRAMS TEQ _{DF-WHO98} PER DRY
STANDARD CUBIC METER (NG/DSCM)
CORRECTED AT 7% O ₂ |
| (2) NITROGEN OXIDES (NOX): | 45 PARTS PER MILLION DRY VOLUME (PPMVD)
CORRECTED AT 7% O ₂ (24 HOUR BLOCK
ARITHMETIC MEAN) |
| | 40 PARTS PER MILLION DRY VOLUME (PPMVD)
CORRECTED AT 7% O ₂ (12 MONTH ROLLING
AVERAGE) |

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1 § 8-117. ADOPTION AND INCORPORATION OF OTHER LIMITS AND STANDARDS.

2 (A) *ADOPTION OF MORE STRINGENT STATE OR FEDERAL STANDARDS.*

3 IF THE U.S. ENVIRONMENTAL PROTECTION AGENCY OR THE STATE OF MARYLAND ADOPTS A
4 MORE STRINGENT STANDARD, LIMIT, OR REQUIREMENT FOR THE EMISSION OF AIR
5 CONTAMINANTS, A MORE STRINGENT STANDARD OF PERFORMANCE FOR ANY FACILITY
6 REGULATED BY THIS PART II, OR A MORE STRINGENT STANDARD OF PERFORMANCE FOR
7 STATIONARY SOURCES THAT WOULD APPLY TO A FACILITY THAN IS IMPOSED BY THIS PART II,
8 THE FACILITY MUST MEET THE MORE STRINGENT REQUIREMENT.

9 (B) *CITY ENFORCEMENT.*

10 IT IS EXPRESSLY THE INTENT OF THE CITY IN ADOPTING THE STANDARDS, LIMITS,
11 REQUIREMENTS, AND STANDARDS OF PERFORMANCE REFERENCED IN SUBSECTION (A) OF THIS
12 SECTION TO MAKE THOSE MORE STRINGENT REQUIREMENTS INDEPENDENTLY ENFORCEABLE BY
13 THE CITY OF BALTIMORE.

14 § 8-118. TO § 8-119 . {RESERVED}

15 § 8-120. REQUIRED CEMS REPORTS.

16 (A) *REPORTS REQUIRED.*

17 (1) EACH FACILITY MUST PROVIDE A DAILY REPORT TO ITS AIR MONITORING CONTRACTOR
18 THAT DETAILS:

19 (I) THE DAILY EMISSIONS FROM THE FACILITY OF THE POLLUTANTS LISTED IN § 8-114.
20 {"POLLUTANTS TO BE CONTINUOUSLY MONITORED"} OF THIS PART II; AND

21 (II) THE REASONS FOR ANY CEMS DOWNTIME.

22 (2) ALL DATA SUPPLIED AS PART OF THE REPORTS REQUIRED BY THIS SECTION IS PROPERTY OF
23 THE CITY OF BALTIMORE.

24 (B) *FORM OF REPORT.*

25 THE DAILY REPORT REQUIRED BY THIS SECTION MUST BE IN THE FORM SPECIFIED BY THE
26 HEALTH COMMISSIONER AND INCLUDE ALL RELEVANT MACHINE READABLE RAW DATA.

27 (C) *REASONABLE ACCESS REQUIRED.*

28 A FACILITY MUST PROVIDE REASONABLE ACCESS TO ITS PROPERTY AND OPERATIONS TO THE AIR
29 MONITORING CONTRACTOR RESPONSIBLE FOR PREPARING THE REPORTS REQUIRED BY THIS
30 SECTION TO ENABLE THE REPORTS TO BE PREPARED AND VERIFIED.

31 (D) *HISTORICAL REPORTS.*

32 EACH FACILITY MUST PROVIDE ITS AIR MONITORING CONTRACTOR WITH ALL EMISSIONS
33 REPORTS FOR THE FACILITY PREVIOUSLY PROVIDED TO THE MARYLAND DEPARTMENT OF THE

Council Bill 18-0306

1 ENVIRONMENT, AND ANY PRIOR AIR MONITORING CONTRACTOR FOR THE FACILITY, AT THE
2 TIME THAT THE AIR MONITORING CONTRACTOR BEGINS MONITORING THE FACILITY.

3 **§ 8-121. DATA DISCLOSURE.**

4 (A) *IN GENERAL.*

5 (1) THE AIR MONITORING CONTRACTOR MUST DISCLOSE THE INFORMATION IT RECEIVES IN THE
6 DAILY REPORTS REQUIRED BY § 8-120(A) {"REQUIRED CEMS REPORTS: REPORTS
7 REQUIRED"} OF THIS PART II TO THE PUBLIC ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE
8 OF PROVIDING AN EASY TO READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

9 (2) THE AIR MONITORING CONTRACTOR MUST ARCHIVE ALL OF THE DAILY REPORTS RECEIVED
10 FROM A FACILITY UNDER § 8-120 {"REQUIRED CEMS REPORTS"} OF THIS PART II AND
11 MAKE THIS ARCHIVED HISTORICAL DATA, TOGETHER WITH ALL DATA PROVIDED BY THE
12 FACILITY UNDER § 8-120(D) {"REQUIRED CEMS REPORTS: HISTORICAL REPORTS"},
13 AVAILABLE ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE OF PROVIDING AN EASY TO
14 READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

15 (B) *REPORTS TO HEALTH DEPARTMENT.*

16 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PROVIDE REPORTS TO THE HEALTH
17 COMMISSIONER, IN THE FORM SPECIFIED BY THE COMMISSIONER AND INCLUDING ALL RELEVANT
18 MACHINE READABLE RAW DATA, ABOUT EMISSIONS FROM THE FACILITY:

19 (1) WHENEVER THE FACILITY EXCEEDS AN EMISSION LIMIT SET UNDER § 8-116 {"EMISSION
20 LIMITS"} OR § 8-117 {"ADOPTION AND INCORPORATION OF OTHER LIMITS AND
21 STANDARDS"};

22 (2) AT REGULAR INTERVALS SET BY THE COMMISSIONER; AND

23 (3) WHENEVER REQUESTED BY THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE.

24 **§ 8-122. INSPECTIONS.**

25 (A) *IN GENERAL.*

26 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PERIODICALLY INSPECT THE
27 CONTINUOUS EMISSIONS MONITORING SYSTEMS INSTALLED AT THE FACILITY AND VERIFY
28 THAT THEY ARE OPERATING CORRECTLY.

29 (B) *TIMES AND INTERVALS.*

30 INSPECTIONS REQUIRED BY THIS SECTION MUST TAKE PLACE AT TIMES AND INTERVALS CHOSEN
31 BY THE HEALTH COMMISSIONER AND WILL NOT BE ANNOUNCED IN ADVANCE TO THE FACILITY.

32 (C) *FREQUENCY.*

33 NO FEWER THAN 4 INSPECTIONS MUST BE CONDUCTED EACH CALENDAR YEAR.

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1 § 8-123. {RESERVED}

2 § 8-124. AIR MONITORING CONTRACTOR CERTIFICATION.

3 (A) *REQUIRED CAPABILITIES.*

4 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST
5 DEMONSTRATE TO THE HEALTH COMMISSIONER'S SATISFACTION THAT IT, USING ITS OWN
6 RESOURCES OR IN PARTNERSHIP WITH 1 OR MORE CO-APPLICANTS, IS CAPABLE OF:

7 (1) PROCURING OR DEVELOPING, AND THEREAFTER INSTALLING, CEMS EQUIPMENT AT A
8 SUBJECT FACILITY;

9 (2) PERFORMING REGULAR INSPECTIONS AS REQUIRED BY § 8-122. {"INSPECTIONS"} OF THIS
10 PART II; AND

11 (3) DEVELOPING SOFTWARE UTILITIES CAPABLE OF CAPTURING AND PUBLICALLY
12 DISPLAYING CEMS DATA NEEDED FOR THE DAILY REPORTS REQUIRED BY § 8-120.
13 {"REQUIRED CEMS REPORTS"} OF THIS PART II.

14 (B) *CONFLICTS OF INTERESTS.*

15 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST NOT
16 HAVE HAD A CONTRACT, OTHER THAN A CONTRACT TO PERFORM THE DUTIES OF AN AIR
17 MONITORING CONTRACTOR UNDER THIS PART II, WITH A FACILITY, OR THE OWNER OR
18 OPERATOR OF A FACILITY:

19 (1) WITHIN THE PAST 10 YEARS; OR

20 (2) FOR THE DURATION OF THEIR ROLE AS AN AIR MONITORING CONTRACTOR.

21 (C) *CERTIFICATION.*

22 THE BALTIMORE CITY HEALTH DEPARTMENT SHALL CERTIFY AN APPLICANT MEETING THE
23 REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION AS AN AIR MONITORING
24 CONTRACTOR WITHIN 90 DAYS OF RECEIVING:

25 (1) INFORMATION, IN THE FORM REQUIRED BY THE HEALTH COMMISSIONER, SUFFICIENT TO
26 DEMONSTRATE THAT THE APPLICANT MEETS THE REQUIREMENTS OF SUBSECTIONS (A)
27 AND (B) OF THIS SECTION; AND

28 (2) PAYMENT OF THE APPLICATION FEE SET BY THE BOARD OF ESTIMATES.

29 § 8-125. CRIMINAL PENALTIES.

30 (A) *IN GENERAL.*

31 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS PART II, OR OF A RULE OR REGULATION
32 ADOPTED UNDER THIS PART II, IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT

Council Bill 18-0306

1 TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH
2 FINE AND IMPRISONMENT FOR EACH OFFENSE.

3 (B) *MULTIPLE SIMULTANEOUS VIOLATIONS.*

4 IF A PERSON IS RESPONSIBLE FOR SIMULTANEOUS VIOLATIONS OF MORE THAN 1 SECTION OF THIS
5 PART II, SIMULTANEOUSLY FAILING TO MONITOR, MEASURE, AND DISCLOSE THE EMISSION OF
6 MORE THAN 1 POLLUTANT AS REQUIRED BY § 8-114 {"POLLUTANTS TO BE CONTINUOUSLY
7 MONITORED"} OF THIS PART II, OR SIMULTANEOUSLY VIOLATING MORE THAN 1 STANDARD
8 REQUIRED BY § 8-116 {"EMISSION LIMITS"} OF THIS PART II, EACH SEPARATE VIOLATION
9 CONSTITUTES A SEPARATE OFFENSE.

10 (C) *CONTINUING VIOLATIONS.*

11 EACH DAY THAT A VIOLATION CONTINUES CONSTITUTES A SEPARATE OFFENSE.

12 § 8-126. SEVERABILITY.

13 ALL PROVISIONS OF THIS PART II ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD, PHRASE,
14 CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT
15 THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES IS INVALID,
16 THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR
17 CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

18 *Subtitle 3. Penalties.*

19 § 8-301. Enforcement by citation.

20 (a) *In general.*

21 In addition to any other civil or criminal remedy or enforcement procedure, this title may be
22 enforced by issuance of:

23 (1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental
24 Control Board"}; or

25 (2) a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.

26 (b) *Process not exclusive.*

27 The issuance of a citation to enforce this title does not preclude pursuing any other civil or
28 criminal remedy or enforcement action authorized by law.

29 § 8-302. Penalties: \$1,000.

30 (a) *In general.*

31 [Any] EXCEPT AS OTHERWISE SPECIFIED, ANY person who violates any provision of this title is
32 guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each
33 offense.

Council Bill 18-0306

(b) Each day a separate offense.

Each day that a violation continues is a separate offense.

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 40-14. Violations to which subtitle applies.

(c) Provisions and penalties enumerated.

(7) Health Code

Title 8: Air Pollution [\$100]

SUBTITLE 2: PROHIBITED EMISSIONS

PART II. COMMERCIAL SOLID WASTE INCINERATORS \$1,000

ALL OTHER PROVISIONS \$100

Subtitle 41. Civil Citations

§ 41-14. Offenses to which subtitle applies – Listing.

(6) Health Code

Title 8: Air Pollution [\$100]

SUBTITLE 2: PROHIBITED EMISSIONS

PART II. COMMERCIAL SOLID WASTE INCINERATORS \$1,000

ALL OTHER PROVISIONS \$100

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect 18 months after the date it is enacted, except as is hereafter provided.

SECTION 4. AND BE IT FURTHER ORDAINED, That the Health Commissioner may begin to certify Air Monitoring Contractors in accordance with § 8-124 {"Air Monitoring Contractor certification"} of this Ordinance 6 months after the date it is enacted.

**LAND USE AND TRANSPORTATION
COMMITTEE**

Communications

Bill 18-0306

Health Code – Clean Air Regulations



Mission: To improve public health in Maryland through education and advocacy

Vision: Healthy Marylanders living in Healthy Communities

18-0306: Health Code – Clean Air Regulation

January 30, 2019

Position: Support

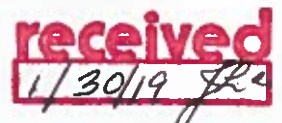
The Maryland Public Health Association (MdPHA) is a non-profit, state-wide organization of public health professionals dedicated to improving the lives of all Marylanders. As the state's affiliate to the American Public Health Association (APHA), MdPHA represents many disciplines working to grow healthy communities throughout Maryland. We champion public health through advocacy efforts in Annapolis and jurisdictions throughout the state, as well as federally, by promoting best practices and providing valuable educational programs for members, creating strong organizational networks, and recognizing individuals and organizations for their outstanding service. MdPHA supports the Clean Air Regulation because it seeks outcomes that advance health equity for Maryland communities.

Air quality is a critical determinant of health in communities. The chronic illnesses that surface as a result of poor air quality have the power to prevent individuals from leading their best lives. In Baltimore City, this phenomenon is most evident through the burden of asthma patients. According to an Environmental Integrity Project report, the average rate of asthma-related hospitalizations in Baltimore City is approximately three times the average rate of Maryland and twice the average rate of the United States¹. Even worse, there is a distinct association between asthma hospitalization in Baltimore city and median household income. Additionally, asthma is the greatest cause of school absenteeism in Baltimore². Children with asthma face the greatest health challenges, due to their more vulnerable physiological states. The youngest in Baltimore City are hospitalized at higher rates than other age groups³.

The air pollutants that most threaten health in Baltimore City, including nitrogen oxides, sulfur dioxide, ozone, fine particulate matter, carbon dioxides, and others, come from sources such as motor vehicles, power plants, and incinerators⁴. However, the Wheelabrator Baltimore waste-to-energy facility is responsible for 36% of industrial air pollution in Baltimore City⁵. This facility is also responsible for 57% of nitrogen oxide pollution in Baltimore City.⁶ Nitrogen oxides are a serious trigger of asthma attacks⁷. Air pollutants from waste incinerators have also shown to increase the risk of pre-term births, and lung and blood cancers⁸.

This legislation is critical because it urges Baltimore City to utilize a public health lens in regulating some of the largest contributors to air pollution in the City. This legislation calls for the use of modernized monitoring technology to continuously monitor toxic emission and disclose the results on a public facing website in real-time, which will increase transparency and awareness of facility emissions. The legislation also calls for emissions regulation that aligns with other strict U.S. standards for sulfur dioxides, mercury, dioxins, and nitrogen oxides, to prioritize public health in Baltimore City.

All Marylanders have the right to breath clean air. Strict regulations, and pollution control of industries, can reduce emissions and improve asthma hospitalization rates in Baltimore City. No one should suffer health and environmental challenges because of where they live. The Maryland Public Health Association strongly urges the passing of this legislation to protect the health of all Baltimore communities, and particularly those who experience the burden of health adversity because of subpar air quality. Thank you for your consideration.



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- ¹ Kelly, L., & Burkhart, K. (2017, December). *Asthma and Air Pollution in Baltimore City*(Rep.). Retrieved <https://www.environmentalintegrity.org/wp-content/uploads/2017/12/Baltimore-Asthma.pdf>
- ² Baltimore City Health Department. (2019, January 04). Asthma. Retrieved from <https://health.baltimorecity.gov/node/454>
- ³ Kelly, L., & Burkhart, K. (2017, December). *Asthma and Air Pollution in Baltimore City*(Rep.). Retrieved <https://www.environmentalintegrity.org/wp-content/uploads/2017/12/Baltimore-Asthma.pdf>
- ⁴ Kelly, L., & Burkhart, K. (2017, December). *Asthma and Air Pollution in Baltimore City*(Rep.). Retrieved <https://www.environmentalintegrity.org/wp-content/uploads/2017/12/Baltimore-Asthma.pdf>
- ⁵ Energy Justice Network (n.d.). Trash Incineration (“Waste-to-Energy”). Retrieved from <http://www.energyjustice.net/files/incineration/trashincineration.pdf>
- ⁶ Energy Justice Network (n.d.). Trash Incineration (“Waste-to-Energy”). Retrieved from <http://www.energyjustice.net/files/incineration/trashincineration.pdf>
- ⁷ American Lung Association. (2018, February 27). Nitrogen Dioxide. Retrieved from <https://www.lung.org/our-initiatives/healthy-air/outdoor/air-pollution/nitrogen-dioxide.html>
- ⁸ Fazzo, L., Minichilli, F., Santoro, M., Ceccarini, A., Della Seta, M., Bianchi, F., ... & Martuzzi, M. (2017). Hazardous waste and health impact: a systematic review of the scientific literature. *Environmental Health*, 16(1), 107.



Council Bill 18-0306

Patrick Moulds, MD, MS
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Baltimore, MD 21202
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Introduction

I live in City Council District 11, just over a mile from the Wheelabrator incinerator. I have an MD from the University of Mississippi. Twenty years ago, I received a master's degree from the Department of Preventive Medicine here at Maryland. I fell in love with the city and make it my home, where I am raising my teenage son.

Environmental epidemiology studies the relationship between environmental exposures and human health. It's difficult. It's almost impossible to do classic, controlled experiments and you largely rely on observational studies.

There are plenty of studies that describe health hazards associated with incinerators. The experts that are hired by incinerators are quick to point out the limitations of these studies and they are correct to do so. But it doesn't mean they're all wrong.

Let's talk about what we know with absolute certainty, using your own formal education and what you've learned as a council member.

Mercury

Mercury is highly toxic causing permanent central nervous system damage, fatigue, weight loss, tremors, personality changes and death. In 2008, Senator Barack Obama introduced legislation to ban the export of mercury from the United States. It passed, and was signed into law by President Bush with the support of the American Chemical Council, the chemical manufacture's lobbying group. That's how bad mercury is.

In 2001, eighteen years ago, mercury was been banned in Maryland schools. The retail sale of mercury thermometers was banned in Maryland the following year.

The EPA advises that if you spill 1/16 teaspoon of mercury, anything more than one thermometer, you should close all inside doors to the room, turn down the temperature, evacuate the premises and call the health department and fire department. If it happened in your school or office it would probably make the local news. For a spill of 2 tablespoons, you should call the National Response Center (staffed by the US Coastguard) who then forwards to the appropriate federal or state agency¹.

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In 2011, Wheelabrator was fined \$77,500 by the Maryland Department of the Environment for failing to control the release of toxic mercury into the air. Wheelabrator issued a statement saying, "No threat to public health or the environment occurred as a result of the events."ⁱⁱ

Think of the resources used, the legislation, regulation, and education to eliminate exposure to even minute amounts of mercury. The most recent year for which we have data, 2014, Wheelabrator released **52 pounds of mercury** into Baltimore City. Or the mercury in nearly 40,000 thermometers. Legal? Yes, but should it be? Should it be located in the middle of a densely populated city?

Lead

As you know, lead is highly toxic and causes learning disabilities, brain damage, memory loss, hearing impairment, hypertension, kidney damage, seizures and death.

Its toxicity is the reason for many city and state programs and regulations. It's why Baltimore City mandates the testing of all children for lead poisoning at ages 12 and 24 months. We have the Childhood Lead Poisoning Prevention Program and the Lead Hazard Reduction Program. It's why all but 19 Baltimore City Schools pay for water in bottles and jugs.

There are chapters and chapters of COMAR devoted to lead regulation. For older homes we require registration with MDE and inspection upon changes in tenancy.

Think about the cost associated with those laws, regulations, programs and policies. Think about the time. Do we balk? No! The CDC is explicit, "No safe blood lead level in children has been identified."ⁱⁱⁱ We worry about micrograms of lead in our drinking water and talk about lead exposure to the public with phrases like "as little as three grains of salt." Tiny, tiny amounts.

Wheelabrator released in 2014, the most recent year for which we have data, **280 pounds of lead.**^{iv}

As something of a side note, I have 3 routes to bring visitors into the city from the airport: I-395 where I point out our beloved home of the Ravens and Orioles, on Russell Street past the Horseshoe Casino and the expanding entertainment district, or to Key Highway, past Port Covington with its



ambitious development plans already underway. No matter which way I choose, we pass the incinerator stack where I usually get the question, "What's that?" The honest answer is that it's one of the largest polluters in the state, number one industrial emitter of mercury and lead in the city, and that "smoke" contains large amounts of highly toxic compounds."

ⁱ "Mercury Spills, Cleanup and Safety." *Maryland Department of the Environment*, mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/www.mde.state.md.us/assets/document/spillsfs.pdf

ⁱⁱ Wheeler, Tim. "City Incinerator Fined for Air Pollution." *Baltimore Sun*, 15 Dec. 2011, baltimoresun.com/features/green/blog/bal-baltimore-incinerator-fined-for-pollution-20111215-story.html

ⁱⁱⁱ "Lead." *Centers for Disease Control and Prevention*, <https://www.cdc.gov/nceh/lead/default.htm>

^{iv} "National Emissions Survey, 2014." *Environmental Protection Agency*.

Life After Wheelabrator

Where will our trash go??

At some point – hopefully sooner than later – Baltimore’s largest air polluter, the aging, privately-owned, Wheelabrator Baltimore trash incinerator, will close down. There is life after Wheelabrator.

Baltimore is fortunate in that it has its own publicly-owned landfill: Quarantine Road Landfill (QRL). Most cities have to rely on private facilities outside of their borders to take their trash. One major difference between public and private facilities is that public ones can choose not to take trash from outside of their borders.

Where will Baltimore’s trash go if Wheelabrator closes? The city’s own landfill.

But aren’t landfills bad? Yes. Of course. However, there’s a landfill at the end of the picture no matter what. We have three main options:

1. Direct landfilling (bad, but better than incineration)
2. Incineration → toxic ash to landfill (most polluting and expensive option)
3. Zero Waste with Material Recovery & Biological Treatment before landfill (best option, economically & environmentally; avoids having gassy, stinky landfills).

Landfills are bad, but incinerators are worse. For every 100 tons burned in an incinerator, 30 tons become toxic ash that go to the landfill. The other 70 tons become air pollution. It’s not the size of landfills that is harmful, but the toxicity. Ash makes landfills more toxic.

Won’t the landfill fill up faster if we don’t burn? Yes, but not by much because we no longer have to take other people’s trash and ash – and we can and must reduce waste!

- 1) We no longer take Harford County’s incinerator ash. This was 10% of the tonnage accepted at QRL from 2007-2015. It stopped after the incinerator closed in 2016.
- 2) Baltimore is already reducing its waste. The city’s waste generation fell 11% from 2016 to 2017, which reduced waste going to Wheelabrator by 6%.
- 3) In 2017, only 53.6% of Wheelabrator’s trash came from the city. The other 46.4% was imported from Baltimore County, 5 other MD Counties, and 8 other states.
- 4) Baltimore County provides 40% of the trash burned in Wheelabrator, and their waste plan is to continue burning in Baltimore rather than use their own landfill.
- 5) QRL is filling up with ash from imported trash. Only starting in 2014 did Baltimore County start taking some of the ash back to their own Eastern Sanitary Landfill in

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White Marsh. However, they're supposed to be taking their share and they never have. See:

	Baltimore County's share of waste burned in Wheelabrator Baltimore	% of Wheelabrator's ash returned to Baltimore County
2005	38%	0%
2006	17%	0%
2007	16%	0%
2008	24%	0%
2009	26%	0%
2010	34%	0%
2011	28%	0%
2012	35%	0%
2013	37%	0%
2014	37%	10%
2015	36%	23%
2016	38%	30%
2017	40%	30%

- 6) How much faster will it fill up? If we do nothing to reduce waste, and use the city's landfill only for city use, we'd be sending 5% more tonnage to the landfill over 2017 levels. 2017 levels were high due to a huge amount of soil dumped there. Compared to the 5-year average (2013-2017), it would be a 39% increase. Easily compensated for by reducing waste appropriately....
- 7) The city passed a polystyrene ban, and could continue to ban problematic materials like single use plastics, reducing waste.
- 8) Composting food scraps and yard waste can reduce waste 25-30% while also avoiding landfill gas generation that contributes to odors and global warming.
- 9) Recycling has a long way to go in the city. The city distributed free large green trash cans, but charges for small yellow recycling bins. This is completely backwards. As our Divert Baltimore pilot showed, simply providing free recycling bins, some basic education, and a financial incentive can dramatically boost recycling rates. Much can also be learned from other cities on how to boost recycling and composting participation.
- 10) An expansion of the Quarantine Road Landfill is already in the works, and has been going through permitting processes with the state for some years now.
- 11) In the worst case scenario – that the QRL expansion isn't ready before the current landfill fills up (which is more likely if the city continues to drag its feet on recycling and composting efforts) – waste could temporarily be shipped through transfer stations to landfills in VA and PA. This is already happening: 9% of Baltimore City's trash was shipped to landfills in 2016, and 3.3% was in 2017. In 2017, five transfer stations used by the city shipped waste to eight landfills in VA, PA, and MD.

All data is from Maryland Department of the Environment. Please contact Mike Ewall at Energy Justice Network with any questions: 215-436-9511 mike@energyjustice.net

Energy Justice
 2017-2018

**Honorable Edward Reisinger and
Members, Land Use and Transportation Committee**

Testimony by: Timothy R. Henderson, Esq. Rich & Henderson, P.C.
Re: City Council Bill 18-0306 – Health Code – Clean Air Regulation
Date: January 30, 2019
Position on the Bill: Oppose

1. I Represent Wheelabrator Baltimore, LP (“Wheelabrator”), the owner and operator of the BRESKO waste-to-energy plant.
2. I’m here to explain why the January 24th opinion from the Solicitor regarding the legal validity of Council Bill No. 180306 (“the Bill”) is wrong. Earlier today we sent a letter to Solicitor Davis providing point by point rebuttal to the Opinion which we would happily share with you.
3. Simply put - the Bill contradicts 50 years of state law and the federal and state air permits that have governed the BRESKO facility since it was built in 1986.
4. If enacted the Bill will lead to immediate and protracted litigation that the City will lose.
5. Why will the City lose? Three reasons
 - a. The Maryland Environmental Code does not authorize local governments to adopt more stringent or different requirements than those adopted pursuant the federal Clean Air Act and the Maryland Clean Air Act. The only way would be for the City to ask the Maryland Department of the Environment (MDE) to make the change in its regulations. The City has not done so over the 50 years history development of the Maryland air pollution control program. MD ENVIR § 2-104
 - (b).
 - b. The Bill will violate the Maryland common law of pre-emption

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which does not allow local governments to regulate in complex, technical subject matters like air emissions from an industrial facility like BRESKO, designed and built with state of the art air pollution controls in 1986, which have been improved and enhanced to comply with the determinations made by scientists working for the federal and state agencies (EPA and MDE) ever since. The Bill would prohibit the operation of BRESKO as its permits and the federal and Maryland Clean Air Laws expressly authorize; it would interfere, undermine, and conflict with the comprehensive federal and state regulatory scheme.

c. The Bill violates the City Charter which prohibits the reliance on police powers to contradict state laws and regulations or to act in an area of regulation occupied comprehensively by the State, like air pollution control. The Solicitor's Opinion ignores this prohibition on adopting ordinances "inconsistent with the provisions of ... the laws of the State." City Charter Art II § 47.

6. Closing - Maryland law does not grant the City explicit power to regulate air pollution or emissions sources, let alone impose costly and unnecessary requirements, as proposed in the Bill. The Maryland Clean Air Act and regulations have dictated how BRESKO was built and has operated. This complex and comprehensive system preempts and therefore invalidates the Bill.

For those reasons we urge you to vote against it.

Key Points Ignored or Overlooked by the Opinion

- In the 1970s, the United States Environmental Protection Agency ("EPA") approved the Maryland State Implementation Plan ("SIP") which set the air pollution control



requirements and standards for stationary sources like the BRESKO municipal waste combustor ("MWC") in accord with 42 U.S.C. §7410. *See*, 40 CFR 52.1070. The complex federal/ state program developed over 50 years no room for local government initiatives, such as those imposed in the Bill.

- While federal law authorized the state to adopt, or local subdivisions to seek, ambient air quality standards more stringent than the federal National Ambient Air Quality Standards ("NAAQS"), Maryland and its local subdivisions chose to adopt the federal standards in its original SIP and or in SIP amendment. *See*, MD ENVIR §2-302(c). No political subdivision, including Baltimore City, requested MDE to adopt more stringent ambient standards in their area.
- Under the review and approval of the EPA, the Maryland Department of the Environment ("MDE") has updated its SIP to incorporate new technology standards and requirements set by it and EPA for new and existing stationary sources deemed necessary to protect human health and the environment. These SIP requirements dictated the BRESKO's design and the installation and retrofit of the air pollution controls.
 - When it was built in 1986, the Facility installed state of the art air pollution control systems designed to meet the NAAQS and technology control standards established by the EPA and MDE.
 - In 2000, EPA and MDE required BRESKO to retrofit its air pollution controls to meet stringent new emission limits for mercury, cadmium, lead, sulfur dioxide, nitrogen oxides and other emissions.
 - On November 26, 2018 pursuant to its authority to impose Reasonable Control Technologies (RACT) on existing stationary sources, the Department issued a final rule which significantly reduces the nitrogen oxide emission limits for BRESKO.



**Statement of Ted Michaels
President, Energy Recovery Council
Before the Baltimore City Council
January 30, 2019**

RE: Council Bill 18-0306

My name is Ted Michaels and I serve as President of the Energy Recovery Council (ERC). ERC is extremely concerned that the impact of Council Bill 18-0306 would jeopardize the long-term viability of waste-to-energy in Baltimore. As a result, the City would potentially be denied the benefits of a clean, renewable, efficient, and economical form of energy production that has long been a proven and effective means of managing post-recycled waste for the City of Baltimore. The proposed ordinance should be modified in a manner consistent with the testimony of Wheelabrator Technologies Inc.

ERC represents companies and local governments engaged in the waste-to-energy (WTE) sector. Maryland has two existing waste-to-energy facilities, which generate 123 megawatts of electricity from the disposal of more than 4,050 tons of trash per day that would otherwise be landfilled. These facilities provide Maryland communities safe, clean, and effective trash disposal services and are committed to optimizing their operations to meet and outperform federal and state environmental standards and regulations. They also should be commended for their voluntary participation in the Maryland Department of the Environment pilot Peak Ozone Day Reduction Program as further evidence of their commitment to helping the State to meet its air quality goals.

Progressive cities around the world have utilized waste-to-energy--often in city center locations--to promote sustainable waste management solutions and avoid landfilling. Baltimore has been a leader for more than 30 years in recovering energy from waste that would otherwise be buried, conserving land, reducing the environmental impacts of landfilling, and providing renewable, "green" steam to the city's steam loop.

Some of the benefits of modern waste-to-energy facilities include:

- The U.S. EPA has said that WTE facilities produce electricity "with less environmental impact than almost any other source of electricity" and "communities greatly benefit from dependable, sustainable capacity of municipal WTE plants."¹
- WTE facilities recover valuable energy from trash after efforts to "reduce, reuse, and recycle" have been implemented by households and local governments.

¹ US Environmental Protection Agency. Letter from Assistant Administrators Marianne Horinko, Office of Solid Waste and Emergency Response, and Jeffery Holmstead, Office of Air and Radiation to Integrated Waste Services Association (2003).



- WTE has been recognized as renewable by the federal government for forty years under a variety of statutes, regulations, and policies, including the Public Utility Regulatory Policies Act of 1978; the Biomass Research and Development Act of 2000; the Federal Energy Policy Act of 2005; Executive Order 13423 of 2007; Executive Order 13514 of 2009; the Pacific Northwest Power Planning and Conservation Act; and Section 45 of the Internal Revenue Code.
- Waste-to-energy facilities comply with stringent state and federal emissions limits, including Maximum Achievable Control Technology (MACT) standards established by the U.S. EPA.
- The U.S. EPA states on its website that “converting non-recyclable waste materials into electricity and heat generates a renewable source and reduces carbon emissions by offsetting the need for energy from fossil fuels sources and reduces methane generation from landfills.”²
- EPA scientists, in a prominent peer reviewed paper, concluded WTE facilities reduce GHG emissions relative to even those landfills equipped with energy recovery systems.³ In addition, many other governmental and nongovernmental organizations have formally recognized WTE for its role in reducing world-wide GHG emissions.
- The revenues, employment, and labor earnings derived from managing waste, producing energy, and recycling metals are the direct economic benefits of WTE. Employees at WTE plants are technically skilled and are compensated at a relatively high average wage. As a result, WTE facilities provide stable, long-term, well-paying jobs, while simultaneously pumping dollars into local economies through the purchase of local goods and services and the payment of fees and taxes.

Conclusion

For the reasons provided in this statement, the Energy Recovery Council urges the City of Baltimore to work with all parties to ensure that the City of Baltimore may continue to rely on waste-to-energy to avoid landfilling and to displace fossil fuel consumption.

² U.S. EPA. (n.d.) *Sustainable Materials Management: Non-Hazardous Materials and Waste Management Hierarchy, Energy Recovery* [website] Retrieved September 14, 2018, from https://www.epa.gov/smm/sustainable-materials-management-non-hazardous-materials-and-waste-management-hierarchy#Energy_Recovery

³ Kaplan, P.O., J. DeCarolis, S. Thorneloe, Is It Better to Burn or Bury Waste for Clean Electricity Generation? *Environ. Sci. Technol.* 2009, 43, 1711-1717. <http://pubs.acs.org/doi/abs/10.1021/es802395e>

Maryland-Delaware Solid Waste Association
a chapter of the



**National
Waste & Recycling
AssociationSM**

Collect. Recycle. Innovate.

TO: The Honorable Edward Reisinger, Chair
Members, Land Use and Transportation Committee

DATE: January 30, 2019

RE: **OPPOSE** – *Council Bill 18-0306 – Health Code – Clean Air Regulation*

The Maryland Delaware Solid Waste Association (MDSWA), a chapter of the National Waste and Recycling Association, is a trade association representing the private solid waste industry in the State of Maryland. Its membership includes hauling and collection companies, processing and recycling facilities, transfer stations, and disposal facilities. MDSWA and its members **oppose** Council Bill 18-0306.

Council Bill 18-0306 requires the installation and inspection of a continuous emissions monitoring system, sets new emissions limits on all commercial solid waste incinerators, requires the hiring of an independent air monitoring contractor to oversee the monitoring and disclosure of air emissions data, and sets both criminal and civil penalties for any violation. These requirements are historically defined by the State or federal government and are not regulated at the local level.

MDSWA's opposition to Council Bill 18-0306 relates to the fact that the bill establishes emissions limits at levels that have the practical effect of closing operations at Wheelabrator. Waste-to-energy is not only a renewable source of energy, it is regarded by the U.S. Environmental Protection Agency as a reliable and responsible method of waste disposal, and is subject to stringent state and federal air, water, and solid waste regulations. Of equal or greater concern to the industry is the fact that passage of this legislation will set a precedent for local control and regulation that could lead to regulatory inconsistency across jurisdictions and result in the economic destabilization of refuse disposal facilities generally, not just waste to energy. As the Association representing the entire private solid waste industry, we are deeply concerned about how Baltimore City, in particular, plans to manage its estimated 1 million tons of total annual waste as well as the effect it will have on waste disposal options available across the State of Maryland.

Cost-effective, environmentally responsible waste management options, such as waste-to-energy, are critical to any jurisdiction's basic infrastructure. Absent amendments to Council Bill 18-0306 that would fundamentally allow Wheelabrator to continue operations in Baltimore City, an unfavorable report is requested.

For more information call:
Pamela Metz Kasemeyer
410-244-7000

received
1/30/19/jks



TO: The Honorable Edward Reisinger, Chair
Members, Land Use and Transportation Committee

FROM: James Connolly
Vice President, Environmental, Health and Safety
Wheelabrator Technologies

DATE: January 30, 2019

RE: **SUPPORT WITH AMENDMENT** – *Council Bill 18-0306 – Health Code – Clean Air Regulation*

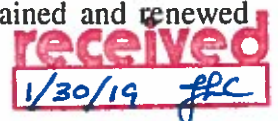
On behalf of Wheelabrator Technologies and Wheelabrator Baltimore (Wheelabrator), we submit this letter of **support with amendment**, for Council Bill 18-0306, which would require the installation and inspection of a continuous emissions monitoring system, set new emissions limits on all commercial solid waste incinerators, and require the hiring of an independent air monitoring contractor to oversee the monitoring and disclosure of air emissions data. Approval of the bill as written would have negative environmental and fiscal impacts on Baltimore City.

Over the last two years, Wheelabrator has been the target of a baseless and misleading media campaign premised on the false narrative that the facility is responsible for poor air quality in Baltimore. The fact that we have air quality permits issued by the MDE after rigorous review showing we meet air quality standards refutes this premise.

There are other sources which contribute more significantly to air quality issues in Baltimore. Even the Environmental Integrity Project acknowledged in 2017 that “on-road vehicles are the largest contributor to the air pollution that people breathe in Baltimore...because vehicle tailpipes...do not disperse pollution as widely as taller smokestacks.” The fact is any facility impacts are significantly below all federal and state air quality standards set to protect public health with an adequate margin of safety and closing the facility would have no measureable improvement in city air quality.

Since the time of Baltimore City Mayor William Donald Schaefer to present, waste-to-energy has served the city’s waste disposal needs as the most environmentally sound method to dispose of waste because it reduces greenhouse gas emissions such as methane, reduces waste volumes by 90%, and creates sustainable renewable energy. For every ton of waste processed at a waste-to-energy facility, approximately one ton of emitted carbon dioxide is prevented. These are not simply the views of Wheelabrator, but those of the United States Environmental Protection Agency, the European Environmental Agency, the Center for American Progress, the World Economic Forum, the Intergovernmental Panel on Climate Change, Kyoto Protocol’s Clean Development Mechanism, and the United Nations Environment Programme, among many others.

Waste-to-energy is very well understood and tightly regulated. For more than 30 years, Wheelabrator has operated in accordance with stringent state and federal air, water and solid waste regulations designed to protect public health and the environment. All of our operating permits have been maintained and renewed



without exception. We continuously monitor numerous environmental health and safety standards, and meet 800 different environmental health and safety compliance checks each and every day.

Since startup the facility has invested millions of dollars in new air quality controls and optimization and technological upgrades and is spending several hundreds of thousands more to further reduce its NOx emissions by over 25% to meet the new state requirements. These facts must be taken into consideration, as you consider the amendments proffered by Wheelabrator.

Whether intended or not, passage of Council Bill 18-0306 without amendment would have the effect of closing Wheelabrator Baltimore and forcing the city to use a much less environmentally sound method of managing solid waste – long haul and landfill. Baltimore City generates about 1.6 million tons of waste per year, recycles less than 19%. The only alternative to waste-to-energy for the disposal of waste is landfilling. That would mean that in forcing the closure of Wheelabrator Baltimore, Baltimore City would be required to add approximately 37,000 new tractor-trailer trips to city streets to move waste out of the City or landfill the waste locally. Moreover, since Wheelabrator actually removes and recycles metals from the waste it receives, without the facility, an additional 15,000 tons of metals will be landfilled annually. Furthermore, this bill would result in hundreds of thousands of tons of additional greenhouse gases being released each year by Baltimore City greatly expanding the City's carbon footprint.

There are financial impacts as well. Baltimore City would lose an estimated \$9 million in annual revenue from Wheelabrator while raising the operating expenses for the Baltimore City Department of Public Works by more than \$110 million in order to manage the waste currently processed by Wheelabrator, expanding landfilling in the city, and developing transfer station facilities. Clearly, Baltimore City would have to annually divert millions of dollars in funding from priorities such as public safety, education, youth opportunities, and community and economic development simply to manage its waste.

Wheelabrator understands the City Council's concerns relating to complete transparency in the monitoring and disclosure of air emissions. It is the reason why it is proffering amendments to Council Bill 18-0306 requiring it to remain compliant with the vast majority of its provisions.

In short, the amendments maintain the requirements for hiring a Department of Health certified independent air monitoring contractor to oversee the inspection of Wheelabrator's continuous emissions monitoring systems, to monitor and disclose air emissions data, and providing for civil penalties to ensure compliance. The amendments refine emissions monitoring to include stack testing, requires submission of a feasibility analysis to detail further achievable emissions reductions, and remove unachievable emissions limits and criminal penalties. These amendments are entirely consistent with Baltimore City Council Resolution 18-101R, which requests that the Maryland Department of the Environment begin a rulemaking process to set more stringent emissions limits following Wheelabrator's submission of a feasibility analysis by January 1, 2020.

In its more than 30 years of operating in Baltimore City, Wheelabrator has processed over 23 million tons of waste, generated 10 million megawatts of renewable electricity, recycled 350,000 tons of metals, and contributed \$1 billion from disposal costs into the local economy. If the City Council were to force the closure of Wheelabrator, 65 employees would lose their job, another, and \$50 million annually to Baltimore City and the State of Maryland would be lost. Nearly 70% of Wheelabrator's workforce lives and receive extensive benefits, including, but, not limited to, comprehensive healthcare coverage, prescription drug coverage, dental and vision coverage, short- and long-term disability coverage, life insurance, a 401(k) Plan, and an education savings account.

As you consider Council Bill 18-0306, please recognize the critical role Wheelabrator plays in Baltimore City's infrastructure. We urge the Land Use and Transportation Committee to accept the proffered

amendments to Council Bill 18-0306 as entirely reasonable and a good-faith effort by Wheelabrator to demonstrate its commitment to improving air quality in Baltimore City while providing vital, cost effective solid waste management services to the City

For more information call legislative counsel:

Richard A. Tabuteau, Esq.

(410) 244-7000



January 30, 2019

To: Honorable Edward Reisinger, Chair; and
Honorable Members of the Baltimore City Council Land Use and Transportation Committee

Re: Council Bill 18-0306- Baltimore Clean Air Act

Curtis Bay Medical Waste Services encourages an UNFAVORABLE report on CB 18-0306

Curtis Bay an integral part of the healthcare delivery system in Baltimore, Maryland, and region. We are a specialized facility dealing in large part with special types of medical wastes that cannot legally or medically be recycled or landfilled- we do not incinerate municipal waste. Contrary to information presented both others, there are specific types of special medical wastes that are required by law, permits, or medical requirements, to be incinerated. As written, this Bill blindly and arbitrarily threatens the viability of our business and the critical services we provide to manage these specific wastes.

We employ 72 people at our incinerator in Curtis Bay, of which 46 are members of the United Steelworkers Union and 50 live in Baltimore City. Our company's headquarters is located in Canton, where we employ approximately 25 more people. Overall, Curtis Bay has 234 employees here in Baltimore and in connection with our four out of state facilities.

Originally organized by the region's hospitals to consolidate their waste management practices and meet strict federal requirements, we serve Baltimore and the entire region's medical, research, pharmaceutical manufacturing, and law enforcement communities. Federal Clean Air act requirements impose extremely stringent and specialized requirements on medical waste incinerators. The most recent federal regulations currently in place were promulgated during the Obama administration and were required to be in place in 2014. The requirements, as intended, led the industry to consolidate into regional incinerators- of which Curtis Bay is one. In the early 2000's, there were four medical waste incinerators in Baltimore City and nine in Maryland. Because of this consolidation and the ability to meet the specific federal standards imposed, we serve clients outside of Baltimore and Maryland. But we do that, by design, very well, all the while ensuring that we are meeting the most strict emissions standards possible in our community.

The existing emissions requirements for medical waste incinerators were established using sound science, a detailed understanding and analysis of the types of wastes treated, and specific issues associated with those wastes. This Bill didn't consider any of those factors. It was drafted by advocates in manner that cherry-picked air emissions controls and requirements, blind to technical requirements and practicalities of the medical waste industry. It requires oversight by the City Department of Health, who have no staff or technical expertise knowledgeable in the subject and yet are tasked with the duty of determining when criminal violations are appropriate. It requires continuous reporting and availability of data, without any technical purpose and for no other reason than to increase cost- even when existing state and federal requirements stipulate that data is regularly provided and that any

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* Main 410-354-3228 * Fax 410-354-3591



exceedance is reported within 24 hours of its occurrence. In short, the Bill has little purpose other than to impose arbitrary and capricious regulatory and operational hurdles to the two facilities affected.

Curtis Bay is a relatively modest facility in terms of emissions. Other facilities in Baltimore City that actually generate more nitrogen oxides (NOx) each year than Curtis Bay does include Domino Sugar, the Johns Hopkins Hospital Campus, the University of Maryland Medical System Campus, and the Veolia steam plants on Central Avenue and in Spring Garden. For example, Curtis Bay emits 1/30th the amount of NOx as is produced by the Wheelabrator facility.

Curtis Bay does not generate and sell "renewable" emissions credits pursuant to the State's Renewable Energy Portfolio Standard requirements. We serve one purpose- to meet the needs of the medical, research, pharmaceutical manufacturing, and law enforcement communities. Our customers include the likes of Johns Hopkins, University of Maryland Medical System, National Institute of Health, Leidos, Fort Detrick and the Naval Medical Research Center, just to name a few. Approximately 50% of our volume is from third party competitors who rely on our facility to incinerate their client's waste that they cannot treat by autoclave or other techniques.

In contrast to what you have been led to believe; a vast majority of the waste we process needs to be incinerated. This includes Pathogenic, Trace Chemotherapeutic, dialysis, and Pharmaceutical wastes that is required to be incinerated for public health reasons and legal requirements. The truth is that 31 states specifically require incineration for certain medical waste. Maryland is not one of them. However, none of the three autoclave plants in Maryland nor others in the region are not permitted to accept and treat those special wastes. Therefore, they must be incinerated. Please recognize that incineration typically costs customers twice as much as autoclaving. Customers wouldn't pay that cost unless they had to do it.

We understand and appreciate the underlying intent of the Bill- clean air is to everyone's benefit. But we also recognize that we meet some of the most strict requirements in the nation, while providing a key public health benefit that serves the larger good. As proposed, this Bill puts our continued business and the livelihood of our employees in jeopardy, and threatens significant detrimental impacts to public health that have not even been considered. This Bill needs to be tabled so that the full scope of its implications are understood and appreciated by all involved.



- Good evening Council members. My name is Austin Pritchard, and I've been with Wheelabrator Baltimore for 14 years. I started out as a concrete worker, and I currently work as the Plant Manager.
- At Wheelabrator Baltimore, we employ 65 people in our facility, and an additional 20 people work full-time as contractors. We have hundreds of contractors that work at our site every year.
- We're proud that the jobs at Wheelabrator Baltimore are high-paying with a low barrier to entry and lots of opportunity for growth. These jobs have a positive impact on our employees' lives, and the lives of their families. (have staff stand up) *They have come here to show their support because they're proud of their jobs*
- ~~We are proud of the work we do for our city, and the benefits our facility has for the greater Baltimore community.~~
- Wheelabrator Baltimore pays back \$9 million to the city's budget and that goes to help fund police, fire, and schools. We contribute more than \$50 million in jobs and economic activity for our city and Maryland every year.
- ~~We are here tonight because we believe what the experts at the EPA and MDE, as well as the Obama Administration, have asserted for years: that waste-to-energy and our facility are key to a sustainable solution for managing our city's waste.~~
- Every day, we process around 2,200 tons of waste that would otherwise go to landfills. We turn your post-recycled waste into energy to power downtown Baltimore including M&T Stadium, Maryland University and more than 220 other businesses. We also recycle 15,000 tons of metals each year that would otherwise go to landfills.
- This bill will likely shut us down, which will send all our trash to our local landfills that are close to being full.
- ~~We also see the tons of waste that could be recycled, and yet end up in our facility. Despite all the efforts providing education and~~

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access for Baltimore city residents on recycling, the city is still only recycling 19% of the waste it generates. To help increase recycling rates and to keep these materials from ending up in our facility, we launched the WE CAN BMORE program. in *Cherry Hill + Lakeland*

- With WE CAN BMORE, we worked with community leaders in neighborhoods nearby like Cherry Hill and Lakeland. We kicked off the program in Cherry Hill with a Community cookout and cleanup.
- We engaged local residents to knock on doors and fill out surveys about what is most important to their community in terms of cleaning and greening the neighborhoods.
- We offered education on what can and cannot be recycled in Baltimore City and provided free recycling bins so get them started.
- We've given out over 270 recycling bins and are working with leaders in the community to track the recycling efforts on their blocks.
- But just as Wheelabrator Baltimore cannot handle all the city's waste, we know we cannot solve our waste crisis with recycling alone. Recycling markets are plummeting and, while it used to make Baltimore city money, recycling now costs the city money.
- We implore you to consider a holistic approach to this city's waste crisis. Right now, if Wheelabrator Baltimore shuts down, the city would have to build a transfer station and long-haul the waste, at a cost of nearly a hundred million ~~of~~ dollars and more than 200,000 tons of additional greenhouse gases from the trucks ~~would need to haul the waste to landfills.~~
- We know there is no single solution to our city's waste problem and no silver bullet to protect the environment. But we know for sure this bill is worse for the city and for the environment. This bill will wipe out the livelihood of our 65 employees, all our indirect economic impact, and damage the vendors and workers that

count on our facility's business. It will cost our already cash-strapped city even more. And we will be left with piles of waste and nowhere to put it but on tractor trailers for someone else to deal with.

- Please consider the impact of this bill on all of us and offer a realistic, holistic solution for our city's waste and air.
- Thank you.

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I'm John Kumm, PE, with 36 years of professional experience. I specialize in the highly technical world of emissions control technologies and regulatory compliance and I've advised the operators of the Curtis Bay Energy plant for over 20 years.

I'm here to briefly talk about the technical failings of the proposed Bill. In short, while the technical ideas may sound great when cherry-picked by the party that drafted the Bill, many of the proposed requirements aren't based on sound science or practicality.

Under the proposed statute, the medical waste incinerator operated by Curtis Bay Energy, would be an affected facility. After 28 years of operation through three generations of successively more stringent air regulations, with some pollutant limits being reduced nearly 100 times, the facility remains in compliance with state and federal regulations. This has required considerable capital investment and increases in operating costs. Only the mercury and NO_x limits in the proposed statute are lower than the limits that already apply to Curtis Bay Energy and the facility already meets the proposed mercury standard. It operates active NO_x controls to meet the current 140 ppm standard, but would have to install catalytic controls to achieve the 45/40 ppm NO_x limit in the proposed statute. Given existing space constraints at the facility, this would require a capital investment of several million dollars and would increase annual operating costs significantly. When Maryland Department of the Environment revised its NO_x RACT regulations in response to the new 2015 ozone standard, it determined that the current NO_x limit for Curtis Bay Energy did not need to be lowered. Hence, it is likely that forcing Curtis Bay Energy to invest millions in catalytic NO_x control will not produce any measurable improvement in air quality.

The Maryland air toxics regulations, which also apply to the Curtis Bay Energy facility, are health risk-based and provide a more direct correlation between pollutant emissions and public health impacts. The facility has repeatedly demonstrated that emissions of toxic organic and inorganic air pollutants from its stack do not result in ambient concentrations which

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adversely affect public health, indicating that the current emission limits in the federal regulations do not need to be lowered.

Although EPA considers direct, real-time measurement of emissions the ideal compliance assurance monitoring technique, the majority of federal regulations are based on indirect monitoring provisions because in many cases measurement of a surrogate pollutant is more reliable and largely equivalent as an indicator of compliance and for many pollutants, accurate and repeatable methods for direct measurement are not available or proven. EPA routinely uses carbon monoxide as a surrogate for toxic organic pollutants in many federal air regulations. Mandating the continuous measurement of pollutants such as volatile organic compounds and polycyclic aromatic hydrocarbons, in addition to carbon monoxide, will increase operating costs for Curtis Bay Energy by hundreds of thousands of dollars a year, but will not produce measurable environmental or public health benefits.

The proposed statute also requires monitoring system availability approaching 100 percent. Daily, quarterly and annual instrument calibrations result in downtimes of more than 30 minutes. Because of this, current federal and state regulations for continuous emissions monitors require availability between 90 and 95 percent on a monthly basis. The near 100 percent availability requirement can only be attained if Curtis Bay Energy maintains identical, redundant monitoring systems, at an additional cost of hundreds of thousands of dollars, which would not produce measurable environmental or public health benefits.

The proposed statute does not specify emission limits for all of the pollutants being monitored and for some of the pollutants continuous monitoring methods are not proven or accepted by EPA. As a result, much of the monitoring data would not have appropriate context for interpretation. The proposed monitoring and control requirements go beyond the use of techniques based on established science and regulatory practice and are

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unlikely to produce the intended air quality and public health benefits, despite imposing significant new compliance costs on Curtis Bay Energy.

Thank you Chairman Reisinger and Members of the Committee. For the record, I am Brad Keller the Manager of Environmental, Health and Safety for Wheelabrator Baltimore. I have worked at Wheelabrator Baltimore for over 8 years. In my role, I directly manage the facility's strict compliance with all state, local and federal regulations for air quality, water quality, and health and safety.

Before coming to Wheelabrator, I held a leadership role with a waste management company. In this role, I managed a staff that was responsible for Environmental Compliance for all PA and WV Landfills, Transfer stations, Recycling Facilities, and hauling facilities. I have seen solid waste operations of all types throughout the New England and Mid-Atlantic region. I can say without question that Waste-To-Energy is by far the most efficient, clean, safe and convenient way to deal with post-recycled waste.

Because of this, I am here to testify in opposition of the proposed bill in its current form. This bill is designed to close the Wheelabrator Baltimore facility and take away my job and the job of 65 other people here. It is not a clean air act. A true clean air act would contain fair and equitable emissions enforcement for all sources of air pollution. This bill singles out my facility which is already strictly regulated by the MDE. Recently, I worked in partnership with MDE in efforts to reduce our NOx emissions by 25 %. Upon completion of this project, Wheelabrator Baltimore will have the lowest NOx emission limits for existing plants in the Mid-Atlantic and New England regions.

I take pride in our facility. We work tirelessly 24-7, 365 to create an environmentally friendly and safe partner for Baltimore City to manage trash. I also proudly tour hundreds of people through our facility each year. These include local school groups, undergraduate and graduate University groups, community stakeholders, industry professionals, and government and military personnel from the US and abroad.

I also know for a fact that some members of this council have toured the facility. I would ask those of you who have not toured our facility to consider coming out and meeting with me and our great team. People who take the tour are amazed at the sheer volume of trash (over 2200 tons/ day) that we manage and the professionalism that our employees exhibit. I am very proud to work with all of these people and am looking forward to showing them off to you.

Thank you for your time.

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1-30-19 JRC

**CITY OF BALTIMORE
COUNCIL BILL 18-0306
(First Reader)**

Introduced by: Councilmembers Reisinger, Henry, Costello, Scott, Bullock, Stokes, Burnett,
Cohen, Middleton, Dorsey, Pinkett, Sneed, Clarke

Introduced and read first time: November 19, 2018

Assigned to: Land Use and Transportation Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department, Environmental
Control Board, Department of Public Works, sustainability commission

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Health Code – Clean Air Regulation**

3 FOR the purpose of regulating the emissions from commercial solid waste incinerators; defining
4 certain terms; requiring the continuous monitoring of certain pollutants; setting emissions
5 limits for certain pollutants; requiring the production and public disclosure of certain
6 emissions reports; requiring commercial solid waste incinerators to allow certain inspections;
7 establishing a certification process for air monitoring contractors; setting certain penalties;
8 setting special effective dates; and generally relating to clean air regulations.

9 BY adding

10 Article - Health
11 Section(s) 8-110 to 8-126, to be under a new designation entitled
12 "Part II. Commercial Solid Waste Incinerators"
13 Baltimore City Code
14 (Edition 2000)

15 BY repealing and reordaining, without amendments

16 Article - Health
17 Section(s) 8-301
18 Baltimore City Revised Code
19 (Edition 2000)

20 BY repealing and reordaining, with amendments

21 Article - Health
22 Section(s) 8-302
23 Baltimore City Revised Code
24 (Edition 2000)

25 BY repealing and reordaining, with amendments

26 Article 1 - Mayor, City Council, and Municipal Agencies
27 Section(s) 40-14(e)(7)(Title 8) and 41-14(6)(Title 8)
28 Baltimore City Code
29 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 18-0306

1 (D) *CONTINUOUS EMISSIONS MONITORING SYSTEM OR CEMS.*

2 (1) *IN GENERAL.*

3 "CONTINUOUS EMISSIONS MONITORING SYSTEM" OR "CEMS" MEANS A POLLUTION
4 MONITORING SYSTEM CAPABLE OF SAMPLING, CONDITIONING, ANALYZING, AND
5 PROVIDING A RECORD OF EMISSIONS AT FREQUENT INTERVALS THAT MEETS U.S.
6 ENVIRONMENTAL PROTECTION AGENCY OR MARYLAND DEPARTMENT OF THE
7 ENVIRONMENT DATA ACQUISITION AND AVAILABILITY REQUIREMENTS.

8 (2) *SAMPLING FREQUENCY.*

9 EXCEPT AS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, THE SAMPLING
10 FREQUENCY CAPABILITY SUFFICIENT TO QUALIFY A SYSTEM AS A CEMS FOR THE
11 PURPOSES OF THIS PART II MUST AT A MINIMUM DELIVER A MONITORING SAMPLE:

12 (I) ONCE PER MINUTE; OR

13 (II) ANY LESSER FREQUENCY OF INTERVAL, UP TO NO LESS THAN ONCE PER HOUR,
14 THAT PROVIDES SUFFICIENT DATA FOR A DIRECT DETERMINATION OF
15 COMPLIANCE WITH ALL APPLICABLE EMISSION LIMITATIONS IMPOSED BY THIS
16 PART II.

17 (3) *DIOXIN AND FURAN SAMPLING.*

18 IN THE CASE OF DIOXINS AND FURANS, LONG-TERM SAMPLING EQUIPMENT MAY BE
19 USED IF REAL-TIME MONITORS ARE NOT COMMERCIALY AVAILABLE, SO LONG AS
20 YEAR-ROUND MONITORING IS STILL ACHIEVED THROUGH BACK-TO-BACK USE OF
21 LONG-TERM MONTHLY SAMPLES.

22 (E) *"PERSON".*

23 "PERSON" MEANS:

24 (1) AN INDIVIDUAL;

25 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
26 KIND;

27 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
28 REPRESENTATIVE OF ANY KIND.

29 (F) *SOLID FUEL OR WASTE.*

30 "SOLID FUEL" OR "WASTE" MEANS ANY SOLID WASTE, DISCARDED MATERIAL,
31 RECYCLABLE MATERIALS, SLUDGES, BY-PRODUCTS, COMMERCIAL CHEMICAL PRODUCTS,
32 MUNICIPAL WASTE, HAZARDOUS WASTE, BIOMASS, PROCESSED DEBRIS, SPECIAL MEDICAL
33 WASTE, STERILIZED SPECIAL MEDICAL WASTE, SEWAGE SLUDGE, SCRAP TIRES, AUTO
34 SHREDDER RESIDUE, REFUSE-DERIVED FUEL, PROCESSED ENGINEERED FUEL, OR SOLID FUEL
35 PRODUCED FROM MUNICIPAL WASTE.

Council Bill 18-0306

1 (G) $TEQ_{DF-WHO_{98}}$ -

2 "TEQ_{DF-WHO₉₈}" MEANS A UNIT OF MEASUREMENT FOR DIOXINS AND FURANS,
3 STANDARDIZED TO TOXIC EQUIVALENTS, CALCULATED IN ACCORDANCE WITH THE WORLD
4 HEALTH ORGANIZATION'S 1998 METHOD.

5 **§ 8-112. SCOPE.**

6 ALL COMMERCIAL SOLID WASTE INCINERATORS LOCATED WITHIN BALTIMORE CITY ARE
7 SUBJECT TO THE REQUIREMENTS OF THIS PART II.

8 **§ 8-113. RULES AND REGULATIONS.**

9 (A) *HEALTH COMMISSIONER TO ADOPT.*

10 THE HEALTH COMMISSIONER MAY ADOPT RULES AND REGULATIONS TO IMPLEMENT THIS
11 PART II.

12 (B) *FILING WITH LEGISLATIVE REFERENCE.*

13 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS PART II MUST BE FILED
14 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

15 **§ 8-114. POLLUTANTS TO BE CONTINUOUSLY MONITORED.**

16 EACH FACILITY MUST, AT ITS OWN EXPENSE, CONTRACT WITH AN AIR MONITORING
17 CONTRACTOR CERTIFIED BY THE HEALTH COMMISSIONER IN ACCORDANCE WITH § 8-124
18 {"AIR MONITORING CONTRACTOR CERTIFICATION"} TO INSTALL, OPERATE, AND MAINTAIN
19 CONTINUOUS EMISSIONS MONITORING SYSTEMS ("CEMS") EQUIPMENT TO MONITOR,
20 MEASURE, AND DISCLOSE THE SMOKESTACK EMISSION OF THE FOLLOWING POLLUTANTS:

- 21 (1) DIOXINS AND FURANS, AS MEASURED AT A POINT, AFTER ALL AIR POLLUTION CONTROL
22 DEVICES, WHERE THE EXHAUST GASES HAVE COOLED TO BELOW 200 DEGREES
23 CENTIGRADE;
- 24 (2) CARBON DIOXIDE (CO₂) AND CARBON MONOXIDE (CO);
- 25 (3) HYDROCHLORIC ACID (HCL) AND HYDROFLUORIC ACID (HF);
- 26 (4) NITROGEN OXIDES (NO_x);
- 27 (5) SULFUR DIOXIDES (SO₂);
- 28 (6) PARTICULATE MATTER (PM);
- 29 (7) VOLATILE ORGANIC COMPOUNDS (VOCs);
- 30 (8) POLYCYCLIC AROMATIC HYDROCARBONS (PAHS); AND

Council Bill 18-0306

1 (9) ARSENIC, CADMIUM, CHROMIUM (VI), LEAD, MANGANESE, MERCURY, NICKEL,
2 SELENIUM, AND ZINC.

3 § 8-115. MONITORING SYSTEM TO BE CONTINUOUSLY ACTIVE.

4 (A) *IN GENERAL.*

5 A FACILITY'S CEMS MUST BE OPERATIONAL AT ALL TIMES THAT THE FACILITY IS
6 OPERATING.

7 (B) *GAPS OF MORE THAN 30 MINUTES A VIOLATION.*

8 CEMS DOWNTIME THAT EXCEEDS 30 CONSECUTIVE MINUTES WHILE A FACILITY IS
9 OPERATING ARE A VIOLATION OF THIS SECTION.

10 § 8-116. EMISSION LIMITS.

11 (A) *LIMITS ON JANUARY 1, 2020.*

12 STARTING JANUARY 1, 2020, EACH FACILITY MUST MEET THE FOLLOWING POLLUTION
13 LIMITS:

- 14 (1) MERCURY: 15 MICROGRAMS PER DRY STANDARD CUBIC METER
15 (μ G/DSCM) CORRECTED AT 7% O₂
- 16 (2) SULFUR DIOXIDE (SO₂): 18 PARTS PER MILLION DRY VOLUME (PPMVD)
17 CORRECTED AT 7% O₂ (24 HOUR GEOMETRIC MEAN)

18 (B) *LIMITS ON JANUARY 1, 2022.*

19 STARTING JANUARY 1, 2022, IN ADDITION TO THE LIMITS IMPOSED BY SUBSECTION (B) OF THIS
20 SECTION, EACH FACILITY MUST MEET THE FOLLOWING POLLUTION LIMITS:

- 21 (1) DIOXINS/FURANS (PCDD/F): 2.6 NANOGRAMS TEQ_{DF}-WHO₉₈ PER DRY
22 STANDARD CUBIC METER (NG/DSCM)
23 CORRECTED AT 7% O₂
- 24 (2) NITROGEN OXIDES (NOX): 45 PARTS PER MILLION DRY VOLUME (PPMVD)
25 CORRECTED AT 7% O₂ (24 HOUR BLOCK
26 ARITHMETIC MEAN)
- 27 40 PARTS PER MILLION DRY VOLUME (PPMVD)
28 CORRECTED AT 7% O₂ (12 MONTH ROLLING
29 AVERAGE)

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1 **§ 8-117. ADOPTION AND INCORPORATION OF OTHER LIMITS AND STANDARDS.**

2 (A) *ADOPTION OF MORE STRINGENT STATE OR FEDERAL STANDARDS.*

3 IF THE U.S. ENVIRONMENTAL PROTECTION AGENCY OR THE STATE OF MARYLAND ADOPTS A
4 MORE STRINGENT STANDARD, LIMIT, OR REQUIREMENT FOR THE EMISSION OF AIR
5 CONTAMINANTS, A MORE STRINGENT STANDARD OF PERFORMANCE FOR ANY FACILITY
6 REGULATED BY THIS PART II, OR A MORE STRINGENT STANDARD OF PERFORMANCE FOR
7 STATIONARY SOURCES THAT WOULD APPLY TO A FACILITY THAN IS IMPOSED BY THIS PART II,
8 THE FACILITY MUST MEET THE MORE STRINGENT REQUIREMENT.

9 (B) *CITY ENFORCEMENT.*

10 IT IS EXPRESSLY THE INTENT OF THE CITY IN ADOPTING THE STANDARDS, LIMITS,
11 REQUIREMENTS, AND STANDARDS OF PERFORMANCE REFERENCED IN SUBSECTION (A) OF THIS
12 SECTION TO MAKE THOSE MORE STRINGENT REQUIREMENTS INDEPENDENTLY ENFORCEABLE BY
13 THE CITY OF BALTIMORE.

14 **§ 8-118. TO § 8-119 . {RESERVED}**

15 **§ 8-120. REQUIRED CEMS REPORTS.**

16 (A) *REPORTS REQUIRED.*

17 (1) EACH FACILITY MUST PROVIDE A DAILY REPORT TO ITS AIR MONITORING CONTRACTOR
18 THAT DETAILS:

19 (i) THE DAILY EMISSIONS FROM THE FACILITY OF THE POLLUTANTS LISTED IN § 8-114,
20 {"POLLUTANTS TO BE CONTINUOUSLY MONITORED"} OF THIS PART II; AND

21 (ii) THE REASONS FOR ANY CEMS DOWNTIME.

22 (2) ALL DATA SUPPLIED AS PART OF THE REPORTS REQUIRED BY THIS SECTION IS PROPERTY OF
23 THE CITY OF BALTIMORE.

24 (B) *FORM OF REPORT.*

25 THE DAILY REPORT REQUIRED BY THIS SECTION MUST BE IN THE FORM SPECIFIED BY THE
26 HEALTH COMMISSIONER AND INCLUDE ALL RELEVANT MACHINE READABLE RAW DATA.

27 (C) *REASONABLE ACCESS REQUIRED.*

28 A FACILITY MUST PROVIDE REASONABLE ACCESS TO ITS PROPERTY AND OPERATIONS TO THE AIR
29 MONITORING CONTRACTOR RESPONSIBLE FOR PREPARING THE REPORTS REQUIRED BY THIS
30 SECTION TO ENABLE THE REPORTS TO BE PREPARED AND VERIFIED.

31 (D) *HISTORICAL REPORTS.*

32 EACH FACILITY MUST PROVIDE ITS AIR MONITORING CONTRACTOR WITH ALL EMISSIONS
33 REPORTS FOR THE FACILITY PREVIOUSLY PROVIDED TO THE MARYLAND DEPARTMENT OF THE

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1 ENVIRONMENT, AND ANY PRIOR AIR MONITORING CONTRACTOR FOR THE FACILITY, AT THE
2 TIME THAT THE AIR MONITORING CONTRACTOR BEGINS MONITORING THE FACILITY.

3 **§ 8-121. DATA DISCLOSURE.**

4 (A) *IN GENERAL.*

5 (1) THE AIR MONITORING CONTRACTOR MUST DISCLOSE THE INFORMATION IT RECEIVES IN THE
6 DAILY REPORTS REQUIRED BY § 8-120(A) {"REQUIRED CEMS REPORTS: REPORTS
7 REQUIRED"} OF THIS PART II TO THE PUBLIC ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE
8 OF PROVIDING AN EASY TO READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

9 (2) THE AIR MONITORING CONTRACTOR MUST ARCHIVE ALL OF THE DAILY REPORTS RECEIVED
10 FROM A FACILITY UNDER § 8-120 {"REQUIRED CEMS REPORTS"} OF THIS PART II AND
11 MAKE THIS ARCHIVED HISTORICAL DATA, TOGETHER WITH ALL DATA PROVIDED BY THE
12 FACILITY UNDER § 8-120(D) {"REQUIRED CEMS REPORTS: HISTORICAL REPORTS"},
13 AVAILABLE ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE OF PROVIDING AN EASY TO
14 READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

15 (B) *REPORTS TO HEALTH DEPARTMENT.*

16 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PROVIDE REPORTS TO THE HEALTH
17 COMMISSIONER, IN THE FORM SPECIFIED BY THE COMMISSIONER AND INCLUDING ALL RELEVANT
18 MACHINE READABLE RAW DATA, ABOUT EMISSIONS FROM THE FACILITY:

19 (1) WHENEVER THE FACILITY EXCEEDS AN EMISSION LIMIT SET UNDER § 8-116 {"EMISSION
20 LIMITS"} OR § 8-117 {"ADOPTION AND INCORPORATION OF OTHER LIMITS AND
21 STANDARDS"};

22 (2) AT REGULAR INTERVALS SET BY THE COMMISSIONER; AND

23 (3) WHENEVER REQUESTED BY THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE.

24 **§ 8-122. INSPECTIONS.**

25 (A) *IN GENERAL.*

26 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PERIODICALLY INSPECT THE
27 CONTINUOUS EMISSIONS MONITORING SYSTEMS INSTALLED AT THE FACILITY AND VERIFY
28 THAT THEY ARE OPERATING CORRECTLY.

29 (B) *TIMES AND INTERVALS.*

30 INSPECTIONS REQUIRED BY THIS SECTION MUST TAKE PLACE AT TIMES AND INTERVALS CHOSEN
31 BY THE HEALTH COMMISSIONER AND WILL NOT BE ANNOUNCED IN ADVANCE TO THE FACILITY.

32 (C) *FREQUENCY.*

33 NO FEWER THAN 4 INSPECTIONS MUST BE CONDUCTED EACH CALENDAR YEAR.

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1 § 8-123. *{RESERVED}*

2 § 8-124. AIR MONITORING CONTRACTOR CERTIFICATION.

3 (A) *REQUIRED CAPABILITIES.*

4 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST
5 DEMONSTRATE TO THE HEALTH COMMISSIONER'S SATISFACTION THAT IT, USING ITS OWN
6 RESOURCES OR IN PARTNERSHIP WITH 1 OR MORE CO-APPLICANTS, IS CAPABLE OF:

7 (1) PROCURING OR DEVELOPING, AND THEREAFTER INSTALLING, CEMS EQUIPMENT AT A
8 SUBJECT FACILITY;

9 (2) PERFORMING REGULAR INSPECTIONS AS REQUIRED BY § 8-122. {"INSPECTIONS"} OF THIS
10 PART II; AND

11 (3) DEVELOPING SOFTWARE UTILITIES CAPABLE OF CAPTURING AND PUBLICALLY
12 DISPLAYING CEMS DATA NEEDED FOR THE DAILY REPORTS REQUIRED BY § 8-120.
13 {"REQUIRED CEMS REPORTS"} OF THIS PART II.

14 (B) *CONFLICTS OF INTERESTS.*

15 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST NOT
16 HAVE HAD A CONTRACT, OTHER THAN A CONTRACT TO PERFORM THE DUTIES OF AN AIR
17 MONITORING CONTRACTOR UNDER THIS PART II, WITH A FACILITY, OR THE OWNER OR
18 OPERATOR OF A FACILITY:

19 (1) WITHIN THE PAST 10 YEARS; OR

20 (2) FOR THE DURATION OF THEIR ROLE AS AN AIR MONITORING CONTRACTOR.

21 (C) *CERTIFICATION.*

22 THE BALTIMORE CITY HEALTH DEPARTMENT SHALL CERTIFY AN APPLICANT MEETING THE
23 REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION AS AN AIR MONITORING
24 CONTRACTOR WITHIN 90 DAYS OF RECEIVING:

25 (1) INFORMATION, IN THE FORM REQUIRED BY THE HEALTH COMMISSIONER, SUFFICIENT TO
26 DEMONSTRATE THAT THE APPLICANT MEETS THE REQUIREMENTS OF SUBSECTIONS (A)
27 AND (B) OF THIS SECTION; AND

28 (2) PAYMENT OF THE APPLICATION FEE SET BY THE BOARD OF ESTIMATES.

29 § 8-125. CRIMINAL PENALTIES.

30 (A) *IN GENERAL.*

31 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS PART II, OR OF A RULE OR REGULATION
32 ADOPTED UNDER THIS PART II, IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT

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1 TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH
2 FINE AND IMPRISONMENT FOR EACH OFFENSE.

3 (B) *MULTIPLE SIMULTANEOUS VIOLATIONS.*

4 IF A PERSON IS RESPONSIBLE FOR SIMULTANEOUS VIOLATIONS OF MORE THAN 1 SECTION OF THIS
5 PART II, SIMULTANEOUSLY FAILING TO MONITOR, MEASURE, AND DISCLOSE THE EMISSION OF
6 MORE THAN 1 POLLUTANT AS REQUIRED BY § 8-114 {"POLLUTANTS TO BE CONTINUOUSLY
7 MONITORED"} OF THIS PART II, OR SIMULTANEOUSLY VIOLATING MORE THAN 1 STANDARD
8 REQUIRED BY § 8-116 {"EMISSION LIMITS"} OF THIS PART II, EACH SEPARATE VIOLATION
9 CONSTITUTES A SEPARATE OFFENSE.

10 (C) *CONTINUING VIOLATIONS.*

11 EACH DAY THAT A VIOLATION CONTINUES CONSTITUTES A SEPARATE OFFENSE.

12 **§ 8-126. SEVERABILITY.**

13 ALL PROVISIONS OF THIS PART II ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD, PHRASE,
14 CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT
15 THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES IS INVALID,
16 THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR
17 CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

18 *Subtitle 3. Penalties.*

19 **§ 8-301. Enforcement by citation.**

20 (a) *In general.*

21 In addition to any other civil or criminal remedy or enforcement procedure, this title may be
22 enforced by issuance of:

23 (1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental
24 Control Board"}; or

25 (2) a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.

26 (b) *Process not exclusive.*

27 The issuance of a citation to enforce this title does not preclude pursuing any other civil or
28 criminal remedy or enforcement action authorized by law.

29 **§ 8-302. Penalties: \$1,000.**

30 (a) *In general.*

31 [Any] EXCEPT AS OTHERWISE SPECIFIED, ANY person who violates any provision of this title is
32 guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each
33 offense.

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1 (b) *Each day a separate offense.*

2 Each day that a violation continues is a separate offense.

3 **Article 1. Mayor, City Council, and Municipal Agencies**

4 **Subtitle 40. Environmental Control Board**

5 **§ 40-14. Violations to which subtitle applies.**

6 (e) *Provisions and penalties enumerated.*

7 (7) *Health Code*

8

9 Title 8: Air Pollution [\$100]

10 SUBTITLE 2: PROHIBITED EMISSIONS

11 PART II. COMMERCIAL SOLID WASTE INCINERATORS \$1,000

12 ALL OTHER PROVISIONS \$100

13

14 **Subtitle 41. Civil Citations**

15 **§ 41-14. Offenses to which subtitle applies – Listing.**

16 (6) *Health Code*

17

18 Title 8: Air Pollution [\$100]

19 SUBTITLE 2: PROHIBITED EMISSIONS

20 PART II. COMMERCIAL SOLID WASTE INCINERATORS \$1,000

21 ALL OTHER PROVISIONS \$100

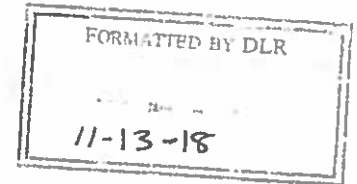
22

23 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance are not
24 law and may not be considered to have been enacted as a part of this or any prior Ordinance.

25 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect 18 months after the
26 date it is enacted, except as is hereafter provided.

27 **SECTION 4. AND BE IT FURTHER ORDAINED,** That the Health Commissioner may begin to certify
28 Air Monitoring Contractors in accordance with § 8-124 {"Air Monitoring Contractor certification"} of
29 this Ordinance 6 months after the date it is enacted.

INTRODUCTORY*
CITY OF BALTIMORE
COUNCIL BILL _____



Introduced by: Councilmember Reisinger

A BILL ENTITLED

AN ORDINANCE concerning

Health Code – Clean Air Regulation

FOR the purpose of regulating the emissions from commercial solid waste incinerators; defining certain terms; requiring the continuous monitoring of certain pollutants; setting emissions limits for certain pollutants; requiring the production and public disclosure of certain emissions reports; requiring commercial solid waste incinerators to allow certain inspections; establishing a certification process for air monitoring contractors; setting certain penalties; setting special effective dates; and generally relating to clean air regulations.

BY adding

Article - Health
Section(s) 8-110 to 8-126, to be under a new designation entitled
“Part II. Commercial Solid Waste Incinerators”
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, without amendments

Article - Health
Section(s) 8-301
Baltimore City Revised Code
(Edition 2000)

BY repealing and reordaining, with amendments

Article - Health
Section(s) 8-302
Baltimore City Revised Code
(Edition 2000)

BY repealing and reordaining, with amendments

Article 1 - Mayor, City Council, and Municipal Agencies
Section(s) 40-14(e)(7)(Title 8) and 41-14(6)(Title 8)
Baltimore City Code
(Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article . Health

Title 8. Air Pollution

Subtitle 1. Prohibited Emissions

PART II. COMMERCIAL SOLID WASTE INCINERATORS

§ 8-110. SHORT TITLE AND PURPOSE.

(A) *SHORT TITLE.*

THIS PART II SHALL BE KNOWN AND MAY BE CITED AS THE “BALTIMORE CLEAN AIR ACT”

(B) *PURPOSE.*

THE PURPOSE AND INTENT OF THIS PART II IS TO ENSURE THAT ACCURATE AND COMPLETE INFORMATION IS AVAILABLE TO THE CITY AND GENERAL PUBLIC ABOUT POLLUTANTS RELEASED FROM COMMERCIAL SOLID WASTE INCINERATORS WITHIN THE CITY AND TO EXERCISE THE AUTHORITY GRANTED TO THE CITY UNDER THE MARYLAND ENVIRONMENT CODE.

§ 8-111. DEFINITIONS.

(A) *IN GENERAL.*

THE FOLLOWING WORDS AND PHRASES WHEN USED WITHIN THIS PART II, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, SHALL HAVE THE MEANING ASCRIBED TO THEM IN THIS SECTION.

(B) *AIR MONITORING CONTRACTOR.*

“AIR MONITORING CONTRACTOR” MEANS AN ENVIRONMENTAL ENGINEER CERTIFIED BY THE CITY TO DESIGN, INSTALL, OPERATE, AND MAINTAIN THE CONTINUOUS EMISSIONS MONITORING SYSTEMS REQUIRED BY THIS PART II.

(C) *COMMERCIAL SOLID WASTE INCINERATOR OR FACILITY -*

“COMMERCIAL SOLID WASTE INCINERATOR” OR “FACILITY” MEANS ANY FACILITY IN BALTIMORE CITY THAT PRODUCES ENERGY OR DISPOSES OF WASTE BY COMBUSTING A SOLID FUEL OR WASTE, OR GASES PRODUCED ON-SITE FROM THE GASIFICATION OR PYROLYSIS OF A SOLID FUEL OR WASTE, AND WHICH IS CAPABLE OF PROCESSING AT LEAST 25 TONS OF SOLID FUEL OR WASTE PER DAY.

(D) *CONTINUOUS EMISSIONS MONITORING SYSTEM OR CEMS.*

(1) *IN GENERAL.*

“CONTINUOUS EMISSIONS MONITORING SYSTEM” OR “CEMS” MEANS A POLLUTION MONITORING SYSTEM CAPABLE OF SAMPLING, CONDITIONING, ANALYZING, AND PROVIDING A RECORD OF EMISSIONS AT FREQUENT INTERVALS THAT MEETS U.S. ENVIRONMENTAL PROTECTION AGENCY OR MARYLAND DEPARTMENT OF THE ENVIRONMENT DATA ACQUISITION AND AVAILABILITY REQUIREMENTS.

(2) *SAMPLING FREQUENCY.*

EXCEPT AS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, THE SAMPLING FREQUENCY CAPABILITY SUFFICIENT TO QUALIFY A SYSTEM AS A CEMS FOR THE PURPOSES OF THIS PART II MUST AT A MINIMUM DELIVER A MONITORING SAMPLE:

(I) ONCE PER MINUTE; OR

(II) ANY LESSER FREQUENCY OF INTERVAL, UP TO NO LESS THAN ONCE PER HOUR, THAT PROVIDES SUFFICIENT DATA FOR A DIRECT DETERMINATION OF COMPLIANCE WITH ALL APPLICABLE EMISSION LIMITATIONS IMPOSED BY THIS PART II.

(3) *DIOXIN AND FURAN SAMPLING.*

IN THE CASE OF DIOXINS AND FURANS, LONG-TERM SAMPLING EQUIPMENT MAY BE USED IF REAL-TIME MONITORS ARE NOT COMMERCIALY AVAILABLE, SO LONG AS YEAR-ROUND MONITORING IS STILL ACHIEVED THROUGH BACK-TO-BACK USE OF LONG-TERM MONTHLY SAMPLES.

(E) “PERSON”.

“PERSON” MEANS:

(1) AN INDIVIDUAL;

(2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY KIND;

(3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND.

(F) *SOLID FUEL OR WASTE.*

“SOLID FUEL” OR “WASTE” MEANS ANY SOLID WASTE, DISCARDED MATERIAL, RECYCLABLE MATERIALS, SLUDGES, BY-PRODUCTS, COMMERCIAL CHEMICAL PRODUCTS, MUNICIPAL WASTE, HAZARDOUS WASTE, BIOMASS, PROCESSED DEBRIS, SPECIAL MEDICAL WASTE, STERILIZED SPECIAL MEDICAL WASTE, SEWAGE SLUDGE, SCRAP TIRES, AUTO SHREDDER RESIDUE, REFUSE-DERIVED FUEL, PROCESSED ENGINEERED FUEL, OR SOLID FUEL PRODUCED FROM MUNICIPAL WASTE.

(G) $TEQ_{DF-WHO_{98}}$ -

“ $TEQ_{DF-WHO_{98}}$ ” MEANS A UNIT OF MEASUREMENT FOR DIOXINS AND FURANS, STANDARDIZED TO TOXIC EQUIVALENTS, CALCULATED IN ACCORDANCE WITH THE WORLD HEALTH ORGANIZATION’S 1998 METHOD.

§ 8-112. SCOPE.

ALL COMMERCIAL SOLID WASTE INCINERATORS LOCATED WITHIN BALTIMORE CITY ARE SUBJECT TO THE REQUIREMENTS OF THIS PART II.

§ 8-113. RULES AND REGULATIONS.

(A) *HEALTH COMMISSIONER TO ADOPT.*

THE HEALTH COMMISSIONER MAY ADOPT RULES AND REGULATIONS TO IMPLEMENT THIS PART II.

(B) *FILING WITH LEGISLATIVE REFERENCE.*

A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS PART II MUST BE FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

§ 8-114. POLLUTANTS TO BE CONTINUOUSLY MONITORED.

EACH FACILITY MUST, AT ITS OWN EXPENSE, CONTRACT WITH AN AIR MONITORING CONTRACTOR CERTIFIED BY THE HEALTH COMMISSIONER IN ACCORDANCE WITH § 8-124 {"AIR MONITORING CONTRACTOR CERTIFICATION"} TO INSTALL, OPERATE, AND MAINTAIN CONTINUOUS EMISSIONS MONITORING SYSTEMS ("CEMS") EQUIPMENT TO MONITOR, MEASURE, AND DISCLOSE THE SMOKESTACK EMISSION OF THE FOLLOWING POLLUTANTS:

- (1) DIOXINS AND FURANS, AS MEASURED AT A POINT, AFTER ALL AIR POLLUTION CONTROL DEVICES, WHERE THE EXHAUST GASES HAVE COOLED TO BELOW 200 DEGREES CENTIGRADE;
- (2) CARBON DIOXIDE (CO₂) AND CARBON MONOXIDE (CO);
- (3) HYDROCHLORIC ACID (HCL) AND HYDROFLUORIC ACID (HF);
- (4) NITROGEN OXIDES (NOX);
- (5) SULFUR DIOXIDES (SO₂);
- (6) PARTICULATE MATTER (PM);
- (7) VOLATILE ORGANIC COMPOUNDS (VOCs);
- (8) POLYCYCLIC AROMATIC HYDROCARBONS (PAHS); AND
- (9) ARSENIC, CADMIUM, CHROMIUM (VI), LEAD, MANGANESE, MERCURY, NICKEL, SELENIUM, AND ZINC.

§ 8-115. MONITORING SYSTEM TO BE CONTINUOUSLY ACTIVE.

(A) *IN GENERAL.*

A FACILITY'S CEMS MUST BE OPERATIONAL AT ALL TIMES THAT THE FACILITY IS OPERATING.

(B) *GAPS OF MORE THAN 30 MINUTES A VIOLATION.*

CEMS DOWNTIME THAT EXCEEDS 30 CONSECUTIVE MINUTES WHILE A FACILITY IS OPERATING ARE A VIOLATION OF THIS SECTION.

§ 8-116. EMISSION LIMITS.

(A) *LIMITS ON JANUARY 1, 2020.*

STARTING JANUARY 1, 2020, EACH FACILITY MUST MEET THE FOLLOWING POLLUTION LIMITS:

- | | |
|--|---|
| (1) MERCURY: | 15 MICROGRAMS PER DRY STANDARD CUBIC METER (μ G/DSCM) CORRECTED AT 7% O ₂ |
| (2) SULFUR DIOXIDE (SO ₂): | 18 PARTS PER MILLION DRY VOLUME (PPMVD) CORRECTED AT 7% O ₂ (24 HOUR GEOMETRIC MEAN) |

(B) *LIMITS ON JANUARY 1, 2022.*

STARTING JANUARY 1, 2022, IN ADDITION TO THE LIMITS IMPOSED BY SUBSECTION (B) OF THIS SECTION, EACH FACILITY MUST MEET THE FOLLOWING POLLUTION LIMITS:

- | | |
|---|--|
| (1) DIOXINS/FURANS (PCDD/F): | 2.6 NANOGRAMS TEQ _{DF} -WHO ₉₈ PER DRY STANDARD CUBIC METER (NG/DCSM) CORRECTED AT 7% O ₂ |
| (2) NITROGEN OXIDES (NO _x): | 45 PARTS PER MILLION DRY VOLUME (PPMVD) CORRECTED AT 7% O ₂ (24 HOUR BLOCK ARITHMETIC MEAN) |
| | 40 PARTS PER MILLION DRY VOLUME (PPMVD) CORRECTED AT 7% O ₂ (12 MONTH ROLLING AVERAGE) |

§ 8-117. ADOPTION AND INCORPORATION OF OTHER LIMITS AND STANDARDS.

(A) *ADOPTION OF MORE STRINGENT STATE OR FEDERAL STANDARDS.*

IF THE U.S. ENVIRONMENTAL PROTECTION AGENCY OR THE STATE OF MARYLAND ADOPTS A MORE STRINGENT STANDARD, LIMIT, OR REQUIREMENT FOR THE EMISSION OF AIR CONTAMINANTS, A MORE STRINGENT STANDARD OF PERFORMANCE FOR ANY FACILITY REGULATED BY THIS PART II, OR A MORE STRINGENT STANDARD OF PERFORMANCE FOR STATIONARY SOURCES THAT WOULD APPLY TO A FACILITY THAN IS IMPOSED BY THIS PART II, THE FACILITY MUST MEET THE MORE STRINGENT REQUIREMENT.

(B) *CITY ENFORCEMENT.*

IT IS EXPRESSLY THE INTENT OF THE CITY IN ADOPTING THE STANDARDS, LIMITS, REQUIREMENTS, AND STANDARDS OF PERFORMANCE REFERENCED IN SUBSECTION (A) OF THIS SECTION TO MAKE THOSE MORE STRINGENT REQUIREMENTS INDEPENDENTLY ENFORCEABLE BY THE CITY OF BALTIMORE.

§ 8-118. TO § 8-119. *{RESERVED}*

§ 8-120. REQUIRED CEMS REPORTS.

(A) *REPORTS REQUIRED.*

(1) EACH FACILITY MUST PROVIDE A DAILY REPORT TO ITS AIR MONITORING CONTRACTOR THAT DETAILS:

- (i) THE DAILY EMISSIONS FROM THE FACILITY OF THE POLLUTANTS LISTED IN § 8-114. {"POLLUTANTS TO BE CONTINUOUSLY MONITORED"} OF THIS PART II; AND
- (ii) THE REASONS FOR ANY CEMS DOWNTIME.

(2) ALL DATA SUPPLIED AS PART OF THE REPORTS REQUIRED BY THIS SECTION IS PROPERTY OF THE CITY OF BALTIMORE.

(B) *FORM OF REPORT.*

THE DAILY REPORT REQUIRED BY THIS SECTION MUST BE IN THE FORM SPECIFIED BY THE HEALTH COMMISSIONER AND INCLUDE ALL RELEVANT MACHINE READABLE RAW DATA.

(C) *REASONABLE ACCESS REQUIRED.*

A FACILITY MUST PROVIDE REASONABLE ACCESS TO ITS PROPERTY AND OPERATIONS TO THE AIR MONITORING CONTRACTOR RESPONSIBLE FOR PREPARING THE REPORTS REQUIRED BY THIS SECTION TO ENABLE THE REPORTS TO BE PREPARED AND VERIFIED.

(D) *HISTORICAL REPORTS.*

EACH FACILITY MUST PROVIDE ITS AIR MONITORING CONTRACTOR WITH ALL EMISSIONS REPORTS FOR THE FACILITY PREVIOUSLY PROVIDED TO THE MARYLAND DEPARTMENT OF THE ENVIRONMENT, AND ANY PRIOR AIR MONITORING CONTRACTOR FOR THE FACILITY, AT THE TIME THAT THE AIR MONITORING CONTRACTOR BEGINS MONITORING THE FACILITY.

§ 8-121. DATA DISCLOSURE.

(A) *IN GENERAL.*

(1) THE AIR MONITORING CONTRACTOR MUST DISCLOSE THE INFORMATION IT RECEIVES IN THE DAILY REPORTS REQUIRED BY § 8-120(A) {"REQUIRED CEMS REPORTS: REPORTS REQUIRED"} OF THIS PART II TO THE PUBLIC ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE OF PROVIDING AN EASY TO READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

(2) THE AIR MONITORING CONTRACTOR MUST ARCHIVE ALL OF THE DAILY REPORTS RECEIVED FROM A FACILITY UNDER § 8-120 {"REQUIRED CEMS REPORTS"} OF THIS PART II AND MAKE THIS ARCHIVED HISTORICAL DATA, TOGETHER WITH ALL DATA PROVIDED BY THE FACILITY UNDER § 8-120(D) {"REQUIRED CEMS REPORTS: HISTORICAL REPORTS"}, AVAILABLE ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE OF PROVIDING AN EASY TO READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

(B) *REPORTS TO HEALTH DEPARTMENT.*

THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PROVIDE REPORTS TO THE HEALTH COMMISSIONER, IN THE FORM SPECIFIED BY THE COMMISSIONER AND INCLUDING ALL RELEVANT MACHINE READABLE RAW DATA, ABOUT EMISSIONS FROM THE FACILITY:

- (1) WHENEVER THE FACILITY EXCEEDS AN EMISSION LIMIT SET UNDER § 8-116 {"EMISSION LIMITS"} OR § 8-117 {"ADOPTION AND INCORPORATION OF OTHER LIMITS AND STANDARDS"};
- (2) AT REGULAR INTERVALS SET BY THE COMMISSIONER; AND
- (3) WHENEVER REQUESTED BY THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE.

§ 8-122. *INSPECTIONS.*

(A) *IN GENERAL.*

THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PERIODICALLY INSPECT THE CONTINUOUS EMISSIONS MONITORING SYSTEMS INSTALLED AT THE FACILITY AND VERIFY THAT THEY ARE OPERATING CORRECTLY.

(B) *TIMES AND INTERVALS.*

INSPECTIONS REQUIRED BY THIS SECTION MUST TAKE PLACE AT TIMES AND INTERVALS CHOSEN BY THE HEALTH COMMISSIONER AND WILL NOT BE ANNOUNCED IN ADVANCE TO THE FACILITY.

(C) *FREQUENCY.*

NO FEWER THAN 4 INSPECTIONS MUST BE CONDUCTED EACH CALENDAR YEAR.

§ 8-123. *{RESERVED}*

§ 8-124. *AIR MONITORING CONTRACTOR CERTIFICATION.*

(A) *REQUIRED CAPABILITIES.*

IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST DEMONSTRATE TO THE HEALTH COMMISSIONER'S SATISFACTION THAT IT, USING ITS OWN RESOURCES OR IN PARTNERSHIP WITH 1 OR MORE CO-APPLICANTS, IS CAPABLE OF:

- (1) PROCURING OR DEVELOPING, AND THEREAFTER INSTALLING, CEMS EQUIPMENT AT A SUBJECT FACILITY;
- (2) PERFORMING REGULAR INSPECTIONS AS REQUIRED BY § 8-122. {"INSPECTIONS"} OF THIS PART II; AND
- (3) DEVELOPING SOFTWARE UTILITIES CAPABLE OF CAPTURING AND PUBLICALLY DISPLAYING CEMS DATA NEEDED FOR THE DAILY REPORTS REQUIRED BY § 8-120. {"REQUIRED CEMS REPORTS"} OF THIS PART II.

(B) *CONFLICTS OF INTERESTS.*

IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST NOT HAVE HAD A CONTRACT, OTHER THAN A CONTRACT TO PERFORM THE DUTIES OF AN AIR MONITORING CONTRACTOR UNDER THIS PART II, WITH A FACILITY, OR THE OWNER OR OPERATOR OF A FACILITY:

- (1) WITHIN THE PAST 10 YEARS; OR
- (2) FOR THE DURATION OF THEIR ROLE AS AN AIR MONITORING CONTRACTOR.

(C) *CERTIFICATION.*

THE BALTIMORE CITY HEALTH DEPARTMENT SHALL CERTIFY AN APPLICANT MEETING THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION AS AN AIR MONITORING CONTRACTOR WITHIN 90 DAYS OF RECEIVING:

- (1) INFORMATION, IN THE FORM REQUIRED BY THE HEALTH COMMISSIONER, SUFFICIENT TO DEMONSTRATE THAT THE APPLICANT MEETS THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION; AND
- (2) PAYMENT OF THE APPLICATION FEE SET BY THE BOARD OF ESTIMATES.

§ 8-125. CRIMINAL PENALTIES.

(A) *IN GENERAL.*

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS PART II, OR OF A RULE OR REGULATION ADOPTED UNDER THIS PART II, IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

(B) *MULTIPLE SIMULTANEOUS VIOLATIONS.*

IF A PERSON IS RESPONSIBLE FOR SIMULTANEOUS VIOLATIONS OF MORE THAN 1 SECTION OF THIS PART II, SIMULTANEOUSLY FAILING TO MONITOR, MEASURE, AND DISCLOSE THE EMISSION OF MORE THAN 1 POLLUTANT AS REQUIRED BY § 8-114 {"POLLUTANTS TO BE CONTINUOUSLY MONITORED"} OF THIS PART II, OR SIMULTANEOUSLY VIOLATING MORE THAN 1 STANDARD REQUIRED BY § 8-116 {"EMISSION LIMITS"} OF THIS PART II, EACH SEPARATE VIOLATION CONSTITUTES A SEPARATE OFFENSE.

(C) *CONTINUING VIOLATIONS.*

EACH DAY THAT A VIOLATION CONTINUES CONSTITUTES A SEPARATE OFFENSE.

§ 8-126. SEVERABILITY.

ALL PROVISIONS OF THIS PART II ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

Subtitle 3. Penalties.

§ 8-301. Enforcement by citation.

(a) *In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this title may be enforced by issuance of:

- (1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental Control Board"}; or
- (2) a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.

(b) *Process not exclusive.*

The issuance of a citation to enforce this title does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

§ 8-302. Penalties: \$1,000.

(a) *In general.*

[Any] EXCEPT AS OTHERWISE SPECIFIED, ANY person who violates any provision of this title is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each offense.

(b) *Each day a separate offense.*

Each day that a violation continues is a separate offense.

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 40-14. Violations to which subtitle applies.

(e) *Provisions and penalties enumerated.*

(7) *Health Code*

.....	
Title 8: Air Pollution	[\$100]
SUBTITLE 2: PROHIBITED EMISSIONS	
PART II. COMMERCIAL SOLID WASTE INCINERATORS	\$1,000
ALL OTHER PROVISIONS	\$100
.....	

Subtitle 41. Civil Citations

§ 41-14. Offenses to which subtitle applies – Listing.

(6) Health Code

....
Title 8: Air Pollution [\$100]

SUBTITLE 2: PROHIBITED EMISSIONS

PART II. COMMERCIAL SOLID WASTE INCINERATORS \$1,000

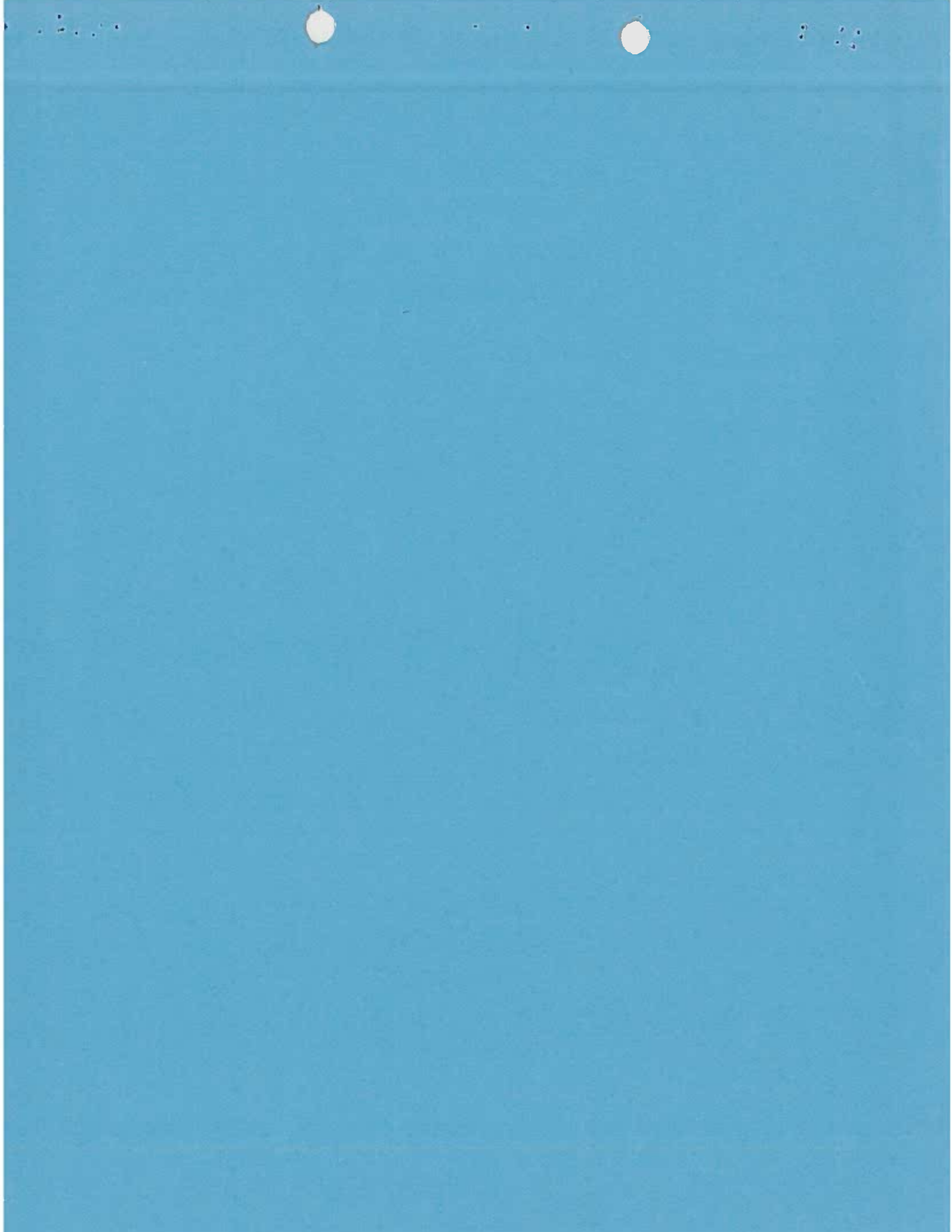
ALL OTHER PROVISIONS \$100

....

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect 18 months after the date it is enacted, except as is hereafter provided.

SECTION 4. AND BE IT FURTHER ORDAINED, That the Health Commissioner may begin to certify Air Monitoring Contractors in accordance with § 8-124 {"Air Monitoring Contractor certification"} of this Ordinance 6 months after the date it is enacted.



ACTION BY THE CITY COUNCIL

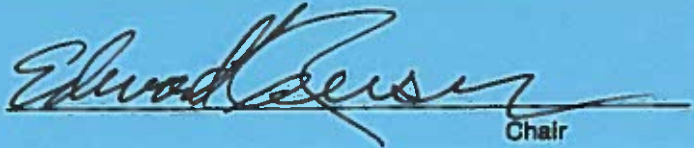
NOV 19 2018
20

FIRST READING (INTRODUCTION) _____

PUBLIC HEARING HELD ON January 30, _____ 20 19

COMMITTEE REPORT AS OF February 7, _____ 20 19

_____ FAVORABLE _____ UNFAVORABLE _____ FAVORABLE AS AMENDED _____ WITHOUT RECOMMENDATION


Chair

COMMITTEE MEMBERS:

COMMITTEE MEMBERS:

SECOND READING: The Council's action being favorable (unfavorable), this City Council bill was (was not) ordered printed for Third Reading on:

FEB 04 2019
20

✓ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING _____ FEB 12 2019

_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

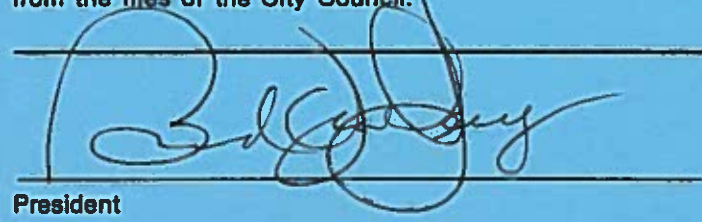
THIRD READING (ENROLLED) _____ 20 _____

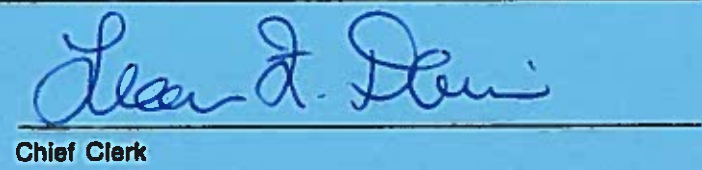
_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (RE-ENROLLED) _____ 20 _____

WITHDRAWAL _____ 20 _____

There being no objections to the request for withdrawal, it was so ordered that this City Council Ordinance be withdrawn from the files of the City Council.


President


Chief Clerk