

Introduced by: Councilmember Clarke

Prepared by: Department of Legislative Reference

Date: September 12, 2018

# RESOLUTION

Referred to: \_\_\_\_\_ Committee

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

CITY COUNCIL 18-0101R

A RESOLUTION ENTITLED

A COUNCIL RESOLUTION concerning

## Request for State Action – Require a Rigorous Pollution Control Study and Stronger Nitrogen Oxides Limits for the Wheelabrator Baltimore Incinerator

FOR the purpose of urging that the Maryland Department of the Environment (“MDE”) require a rigorous analysis relating to the installation of new pollution control technology for nitrogen oxides (“NOx”) at the Wheelabrator Baltimore incinerator; requesting that, following the receipt of this analysis, MDE commence a second rulemaking process and set much stronger NOx pollution limits; and requesting that MDE share the analysis with the Council as soon as possible after receiving it.

*Bill Clarke*  
*Sharon Moore*  
*Margaret Clarke*  
*AA*  
*Hydonsey*  
*J. H. ...*  
*H. ...*  
*Ed ...*

**\*\*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.**



**CITY OF BALTIMORE  
COUNCIL BILL 18-0101R  
(Resolution)**

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Introduced by: Councilmembers Clarke, Henry, Middleton, Scott, Burnett, Cohen, Dorsey,  
Bullock, Sneed, Reisinger  
Introduced and adopted: September 17, 2018

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**A COUNCIL RESOLUTION CONCERNING**

**1 Request for State Action – Require a Rigorous Pollution Control Study and Stronger  
2 Nitrogen Oxides Limits for the Wheelabrator Baltimore Incinerator**

3 FOR the purpose of urging that the Maryland Department of the Environment (“MDE”) require a  
4 rigorous analysis relating to the installation of new pollution control technology for nitrogen  
5 oxides (“NOx”) at the Wheelabrator Baltimore incinerator; requesting that, following the  
6 receipt of this analysis, MDE commence a second rulemaking process and set much stronger  
7 NOx pollution limits; and requesting that MDE share the analysis with the Council as soon as  
8 possible after receiving it.

**9 Recitals**

10 Emissions of nitrogen oxides (“NOx”) contribute to the formation of three pollutants in the  
11 ambient (outdoor) air: ground-level ozone, nitrogen dioxide, and fine particulate matter. Each of  
12 these pollutants can have adverse effects on human health, including worsening symptoms of  
13 asthma in people who already have the condition. Baltimore City has substantially higher rates  
14 of asthma hospitalizations and emergency room visits due to asthma than the rest of the State of  
15 Maryland.

16 The Baltimore area, which includes Baltimore City and five additional counties, is designated  
17 as a nonattainment area for ground-level ozone by the U.S. EPA, meaning that the area does not  
18 meet federal air quality standards for ozone. NOx is the primary pollutant that contributes to the  
19 formation of ground-level ozone.

20 Many factors contribute to Baltimore’s ozone problem, including pollution from power plants  
21 located in other states. Locally, the municipal solid waste incinerator operated by Wheelabrator  
22 Baltimore, L.P. and located in South Baltimore is a major source of NOx emissions.

23 In 2016, the Baltimore incinerator emitted 1,141 tons of NOx, making it the fifth largest  
24 emitter of NOx in the State of Maryland that year. The Baltimore incinerator also emitted more  
25 NOx per unit of energy generated in 2016 than any of the seven coal plants in Maryland.

26 Short-term emission limits for incinerators are expressed in parts per million by volume dry  
27 at 7% oxygen (hereinafter “ppm”). On October 16, 2017, the Council passed Resolution 17-  
28 0034R, which requested that the Maryland Department of the Environment (“MDE”) set a NOx  
29 limit no higher than 150 ppm on a 24-hour average for the Wheelabrator Baltimore incinerator.  
30 This limit had been previously adopted under the federal Reasonably Available Control  
31 Technology (“RACT”) standard in Connecticut and New Jersey and proposed in Massachusetts.  
32 Resolution 17-0034R also requested, pursuant to an amendment adopted on September 28, 2017,

EXPLANATION: Underlining indicates matter added by amendment.  
~~Strike-out~~ indicates matter deleted by amendment.

**Council Bill 18-0101R**

1 that MDE use its legal authority to go beyond the RACT standard in order to set a NOx limit of  
2 45 ppm on a 24-hour basis, which is the limit that would likely be set for a new incinerator.

3 On August 17, 2018, MDE issued a notice of proposed action in the Maryland Register for a  
4 regulation that sets new NOx emission limits for Maryland's two municipal solid waste  
5 incinerators. Under MDE's proposed regulation, the Wheelabrator Baltimore incinerator must  
6 meet a NOx limit of 150 ppm on a 24-hour average starting on May 1, 2019 and a NOx limit of  
7 145 ppm on a 30-day average starting on May 1, 2020. MDE projects that these new limits will  
8 reduce the incinerator's NOx emissions by 200 tons per year, meaning that, after the limits go  
9 into effect, the Wheelabrator Baltimore incinerator will likely continue to emit around 900 tons  
10 per year of NOx.

11 In addition, the proposed regulation requires that, no later than January 1, 2020, Wheelabrator  
12 must submit an analysis of the feasibility of additional control of NOx emissions to MDE,  
13 including the potential to install state-of-the-art NOx control technology on the Wheelabrator  
14 Baltimore incinerator. Wheelabrator Baltimore would also be required to propose new NOx  
15 pollution limits to MDE by January 1, 2020 for the Baltimore incinerator based on the results of  
16 the feasibility analysis.

17 MDE has the legal authority to set NOx emission limits that are much stronger and more  
18 protective of health than the 150 and 145 ppm limits in the regulation that was proposed on  
19 August 17, 2018. However, there is no language in the proposed regulation that compels MDE  
20 to commence a second rulemaking and to set stronger NOx emissions limits for the Baltimore  
21 incinerator after it receives the feasibility analysis and proposed NOx limits from Wheelabrator.

22 The Baltimore incinerator receives financial benefits because it is treated as a Tier 1 source of  
23 renewable energy under Maryland's Renewable Portfolio Standard. Under this program,  
24 Marylanders are supposed to reap benefits from renewable energy resources that include long-  
25 term decreased emissions and a healthier environment.

26 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the  
27 Council requests that Maryland Department of the Environment ensure that the analysis  
28 submitted by Wheelabrator by January 1, 2020 is a rigorous and serious assessment of the  
29 feasibility of installing new NOx pollution control technology on the Wheelabrator Baltimore  
30 incinerator. Specifically, MDE should not accept an analysis that fails to evaluate any kind of  
31 pollution control technology on the basis that the control technology has not been installed on an  
32 existing incinerator as part of a retrofit elsewhere. The Council requests that MDE ensure that  
33 Wheelabrator fully evaluate the technical feasibility of installing, at minimum, the following  
34 control technology on the Wheelabrator Baltimore facility, regardless of cost or whether the  
35 technology has been used in other retrofits: selective catalytic reduction (SCR); hybrid  
36 SCR/selective non-catalytic reduction (SNCR); and regenerative selective catalytic reduction  
37 (RSCR). In addition, the study should evaluate the options of boiler modification and boiler  
38 replacement. If cost is a concern for Wheelabrator, this should be explained separately from the  
39 evaluation of technical feasibility.

40 **AND BE IT FURTHER RESOLVED,** That the Council also urges the Maryland Department of the  
41 Environment to commence a second rulemaking process as soon as possible after receiving the  
42 feasibility analysis from Wheelabrator in order to set a second set of NOx emission limits. The  
43 Council requests that MDE use this rulemaking process to establish much stronger and more  
44 health-protective limits than those set forth in the August 17, 2018 proposed rule.

**Council Bill 18-0101R**

1       **AND BE IT FURTHER RESOLVED,** That the Council requests that MDE transmit the feasibility  
2 analysis and proposed emissions limits that it receives from Wheelabrator to the Baltimore City  
3 Health Department, the Baltimore City Department of Public Works, and the Office of the  
4 President of the Baltimore City Council upon MDE's receipt.

5       **AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Governor, the  
6 Secretary of the Maryland Department of the Environment, the Director of the Air and Radiation  
7 Management Administration, the Division Chief of the Air Quality Regulations Division, the  
8 Mayor, and the Mayor's Legislative Liaison to the City Council.



INTRODUCTORY\*  
CITY OF BALTIMORE  
COUNCIL BILL \_\_\_\_\_ R  
(Resolution)

TD - 9/12/18

Introduced by: Councilmember Clarke

A RESOLUTION ENTITLED

A COUNCIL RESOLUTION concerning

**Request for State Action – Require a Rigorous Pollution Control Study and Stronger Nitrogen Oxides Limits for the Wheelabrator Baltimore Incinerator**

FOR the purpose of urging that the Maryland Department of the Environment (“MDE”) require a rigorous analysis relating to the installation of new pollution control technology for nitrogen oxides (“NOx”) at the Wheelabrator Baltimore incinerator; requesting that, following the receipt of this analysis, MDE commence a second rulemaking process and set much stronger NOx pollution limits; and requesting that MDE share the analysis with the Council as soon as possible after receiving it.

**Recitals**

Emissions of nitrogen oxides (“NOx”) contribute to the formation of three pollutants in the ambient (outdoor) air: ground-level ozone, nitrogen dioxide, and fine particulate matter. Each of these pollutants can have adverse effects on human health, including worsening symptoms of asthma in people who already have the condition. Baltimore City has substantially higher rates of asthma hospitalizations and emergency room visits due to asthma than the rest of the State of Maryland.

The Baltimore area, which includes Baltimore City and five additional counties, is designated as a nonattainment area for ground-level ozone by the U.S. EPA, meaning that the area does not meet federal air quality standards for ozone. NOx is the primary pollutant that contributes to the formation of ground-level ozone.

Many factors contribute to Baltimore’s ozone problem, including pollution from power plants located in other states. Locally, the municipal solid waste incinerator operated by Wheelabrator Baltimore, L.P. and located in South Baltimore is a major source of NOx emissions.

In 2016, the Baltimore incinerator emitted 1,141 tons of NOx, making it the fifth largest emitter of NOx in the State of Maryland that year. The Baltimore incinerator also emitted more NOx per unit of energy generated in 2016 than any of the seven coal plants in Maryland.

Short-term emission limits for incinerators are expressed in parts per million by volume dry at 7% oxygen (hereinafter “ppm”). On October 16, 2017, the Council passed Resolution 17-0034R, which requested that the Maryland Department of the Environment (“MDE”) set a NOx

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

limit no higher than 150 ppm on a 24-hour average for the Wheelabrator Baltimore incinerator. This limit had been previously adopted under the federal Reasonably Available Control Technology ("RACT") standard in Connecticut and New Jersey and proposed in Massachusetts. Resolution 17-0034R also requested, pursuant to an amendment adopted on September 28, 2017, that MDE use its legal authority to go beyond the RACT standard in order to set a NOx limit of 45 ppm on a 24-hour basis, which is the limit that would likely be set for a new incinerator.

On August 17, 2018, MDE issued a notice of proposed action in the Maryland Register for a regulation that sets new NOx emission limits for Maryland's two municipal solid waste incinerators. Under MDE's proposed regulation, the Wheelabrator Baltimore incinerator must meet a NOx limit of 150 ppm on a 24-hour average starting on May 1, 2019 and a NOx limit of 145 ppm on a 30-day average starting on May 1, 2020. MDE projects that these new limits will reduce the incinerator's NOx emissions by 200 tons per year, meaning that, after the limits go into effect, the Wheelabrator Baltimore incinerator will likely continue to emit around 900 tons per year of NOx.

In addition, the proposed regulation requires that, no later than January 1, 2020, Wheelabrator must submit an analysis of the feasibility of additional control of NOx emissions to MDE, including the potential to install state-of-the-art NOx control technology on the Wheelabrator Baltimore incinerator. Wheelabrator Baltimore would also be required to propose new NOx pollution limits to MDE by January 1, 2020 for the Baltimore incinerator based on the results of the feasibility analysis.

MDE has the legal authority to set NOx emission limits that are much stronger and more protective of health than the 150 and 145 ppm limits in the regulation that was proposed on August 17, 2018. However, there is no language in the proposed regulation that compels MDE to commence a second rulemaking and to set stronger NOx emissions limits for the Baltimore incinerator after it receives the feasibility analysis and proposed NOx limits from Wheelabrator.

The Baltimore incinerator receives financial benefits because it is treated as a Tier 1 source of renewable energy under Maryland's Renewable Portfolio Standard. Under this program, Marylanders are supposed to reap benefits from renewable energy resources that include long-term decreased emissions and a healthier environment.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the Council requests that Maryland Department of the Environment ensure that the analysis submitted by Wheelabrator by January 1, 2020 is a rigorous and serious assessment of the feasibility of installing new NOx pollution control technology on the Wheelabrator Baltimore incinerator. Specifically, MDE should not accept an analysis that fails to evaluate any kind of pollution control technology on the basis that the control technology has not been installed on an existing incinerator as part of a retrofit elsewhere. The Council requests that MDE ensure that Wheelabrator fully evaluate the technical feasibility of installing, at minimum, the following control technology on the Wheelabrator Baltimore facility, regardless of cost or whether the technology has been used in other retrofits: selective catalytic reduction (SCR); hybrid SCR/selective non-catalytic reduction (SNCR); and regenerative selective catalytic reduction (RSCR). In addition, the study should evaluate the options of boiler modification and boiler replacement. If cost is a concern for Wheelabrator, this should be explained separately from the evaluation of technical feasibility.

**AND BE IT FURTHER RESOLVED,** That the Council also urges the Maryland Department of the Environment to commence a second rulemaking process as soon as possible after receiving the feasibility analysis from Wheelabrator in order to set a second set of NOx emission limits. The

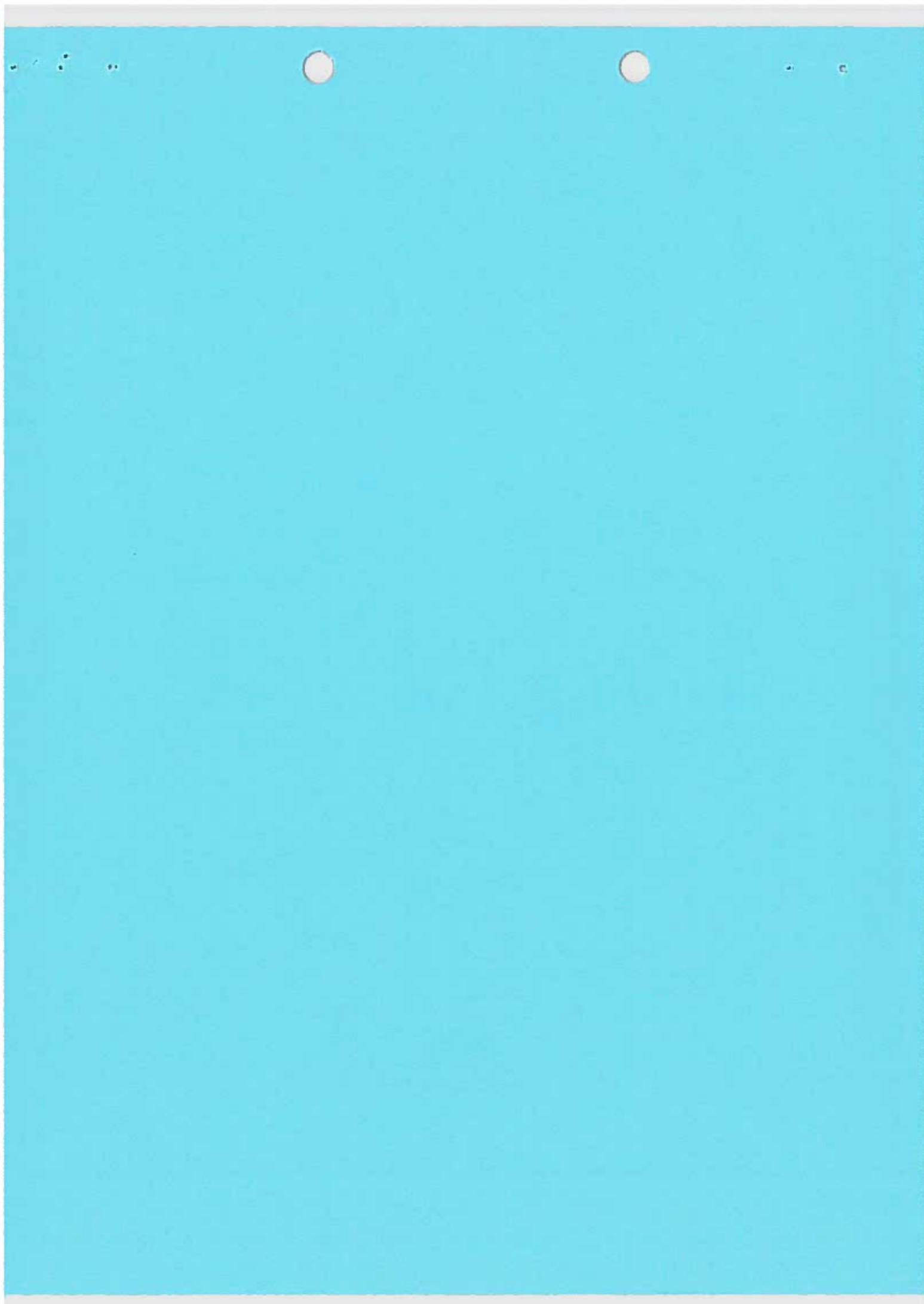


Council requests that MDE use this rulemaking process to establish much stronger and more health-protective limits than those set forth in the August 17, 2018 proposed rule.

**AND BE IT FURTHER RESOLVED,** That the Council requests that MDE transmit the feasibility analysis and proposed emissions limits that it receives from Wheelabrator to the Baltimore City Health Department, the Baltimore City Department of Public Works, and the Office of the President of the Baltimore City Council upon MDE's receipt.

**AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Governor, the Secretary of the Maryland Department of the Environment, the Director of the Air and Radiation Management Administration, the Division Chief of the Air Quality Regulations Division, the Mayor, and the Mayor's Legislative Liaison to the City Council.





**ACTION BY THE CITY COUNCIL**

SEP 17 2018  
20

FIRST READING (INTRODUCTION) \_\_\_\_\_ 20 \_\_\_\_\_

PUBLIC HEARING HELD ON \_\_\_\_\_ 20 \_\_\_\_\_

COMMITTEE REPORT AS OF \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_ FAVORABLE \_\_\_\_\_ UNFAVORABLE \_\_\_\_\_ FAVORABLE AS AMENDED \_\_\_\_\_ WITHOUT RECOMMENDATION

Chair

COMMITTEE MEMBERS:

COMMITTEE MEMBERS:

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\_\_\_\_\_  
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\_\_\_\_\_  
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\_\_\_\_\_

SECOND READING: The Council's action being favorable (unfavorable), this City Council bill was (was not) ordered printed for Third Reading on:

\_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_ 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