City of Baltimore

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

Legislation Details (With Text)

File #:	18-0306	**Version:** 0	**Name:**	Health Code - Clean Air Regulation	
Type:	Ordinance		**Status:**	Enacted	
File created:	11/19/2018		**In control:**	City Council	
On agenda:			**Final action:**	3/7/2019	
Enactment date:			**Enactment #:**	19-232	

Title: 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 Bullock, Robert Stokes, Sr., Kristerfer Burnett, Zeke Cohen, Sharon Green Middleton, Ryan Dorsey, Leon F. Pinkett, III, Shannon Sneed, Mary Pat Clarke

Indexes: Clean Air, Code, Health Care, Regulation

Code sections:

Attachments: 1. 18-0306~1st Reader, 2. ECB 18-0306, 3. Law 18-0306, 4. DPW 18-0306, 5. Health 18-0306, 6. Sustainability Commission 18-0306, 7. 18-0306~3rd Reader, 8. 2nd Reader Amendments 18-0306, 9. County Recyclables for CY 2017, 10. DPWs Fiscal Impact of Possible BRESCO Closure_2-8-2019, 11. 18-0306~3rd Reader, 12. Completed File_18-0306

Date	Ver.	Action By	Action	Result
3/18/2019	0	Mayor	Signed by Mayor	
2/11/2019	0	City Council	Approved and Sent to the Mayor	
2/4/2019	0	City Council	3rd Reader, for final passage	
2/4/2019	0	Land Use & Transportation Committee	Recommended Favorably with Amendment	
1/30/2019	0	Land Use & Transportation Committee	Recommended Favorably with Amendment	Pass
1/14/2019	0	Land Use & Transportation Committee	Scheduled for a Public Hearing	
11/22/2018	0	The City Council	Refer to Environmental Control Board	
11/22/2018	0	The City Council	Refer to Dept. of Public Works	
11/22/2018	0	The City Council	Refer to City Solicitor	
11/22/2018	0	The City Council	Refer to Dept. of Health	
11/22/2018	0	The City Council	Refer to Commission on Sustainability	
11/19/2018	0	City Council	Assigned	
11/19/2018	0	City Council	Introduced	

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.

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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)

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

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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 commercially 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

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gases have cooled to below 200 degrees Centigrade;

(2) Carbon Dioxide (CO_2) and Carbon Monoxide (CO);

(3) Hydrochloric Acid (HCl) and Hydrofluoric Acid (HF);

(4) Nitrogen Oxides (NOx);

(5) Sulfur Dioxides (SO_2);

(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 (μg/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 (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

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(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.*

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(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.*

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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]

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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.