*** Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

City of Baltimore
Council Bill R
(Resolution)

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 Wheelebrator 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 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.

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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.*

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