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February 8, 2019

Via Electronic Transmission: councilpresident@baltimorecity.gov

The Honorable Bernard C. "Jack" Young
City of Baltimore
100 Holiday St., Suite 400
Baltimore, MD 21202

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

Dear Mr. Young,

The National Waste & Recycling Association (NWRA), and the businesses and organizations we represent, write to urge the City of Baltimore to reconsider Council Bill 18-0306 – Health Code – Clean Air Regulation. The NWRA is a not-for-profit trade association representing private solid waste and recycling collection, processing and management companies.

Council Bill 18-0306, as written, would require the installation of multiple continuous emissions monitoring systems (CEMS) including a multi-metals CEMS which has not yet been proven in practice. Council Bill 18-0306 would also set new emissions standards for all commercial solid waste incinerators, above and beyond those established by the United States Environmental Protection Agency (U.S. EPA) and the State of Maryland Department of the Environment (MDE) which were established to be protective of the most sensitive population such as children, the elderly, and individuals suffering from respiratory diseases. NWRA believes there is uncertainty concerning the technical feasibility of achieving lower emissions standards and believes the costs related to the installation of the air pollution controls and monitoring equipment necessary to achieve these limits have not been fully considered.

Requirements to combust and best management practices

Appropriate final disposal and management of materials depends on the type of waste. Combustion has been determined to be the best management practice for a

variety of waste streams. For example, U.S. EPA's forthcoming hazardous waste pharmaceuticals regulations will mandate the combustion of some pharmaceuticals.

In addition, the rule will require cessation of sewerage of some pharmaceuticals due to concerns about environmental impacts from wastewater discharge. This is why it is not always best to autoclave wastes from healthcare settings. Hazardous materials could be discharged to the sewer system leading to waterbodies.

Ultimately, the availability of outlets for Baltimore's waste requiring combustion may be jeopardized as incinerators have limited processing capacity and may not be able to accept additional materials. For example, controlled substances and medications being disposed of through take back events and kiosk programs today would suffer from the shutdown of these facilities. Incineration is currently the only acceptable form of destruction for these materials according to the Drug Enforcement Administration (DEA) and the U.S. EPA (per new regulations). Such programs which are already costly and could incur increased cost if incineration capacity is further limited.

Compliance feasibility

NWRA understands that multi-metal CEMS have been determined by multiple entities, including other states and the U.S. EPA to not be reliably accurate. For example, during Veolia's renewal of their Title V Operating Permit (<https://www.regulations.gov/document?D=EPA-R05-OAR-2014-0280-0111>), U.S. EPA sought to require such a monitoring device. Veolia's third party, industry experts proved that this technology did not collect representative samples to accurately determine emissions of multiple metals and the metals emissions measured using this technology were not comparable to actual stack test results. Ultimately, based on the information presented in response to the draft Title V permit by Veolia and its experts, U.S. EPA agreed not to require this unproven technology. NWRA believes multi-metal CEMS has not yet been proven as an accurate measurement instrumentation and therefore this requirement makes compliance with this criterion impossible and this requirement should be eliminated. Likewise, NWRA believes that CEMS for dioxins/furans, hydrochloric acid and hydrofluoric acid, particulate matter, volatile organic compounds, and polycyclic aromatic hydrocarbons may also be problematic, challenging the ability for facilities to comply with these requirements.

Both the Wheelabrator and Curtis Bay facilities subject to Council Bill 18-0306 are already subject to Maximum Achievable Control Technology (MACT) standards developed by U.S. EPA to minimize emissions of hazardous air pollutants (HAPS) and National Ambient Air Quality Standards (NAAQS) established by U.S. EPA to be protective of human health and welfare. In addition, the MDE required Wheelabrator and Curtis Bay to comply with their regulations concerning the installation of Reasonably Available Control Technology (RACT). In response to these standards and regulations, both Wheelabrator and Curtis Bay have installed air pollution controls to reduce air emissions. Among those controls installed,

Wheelabrator and Curtis Bay employ selective non-catalytic reduction (SNCR) systems to reduce emissions of nitrogen oxides (NO_x). Given these installations, it is unclear without further studies as to how much further NO_x emissions could be reduced. Such studies should be conducted prior to the implementation of any air emissions requirement. Lowering of emissions limits must be done in consideration and in compliance with legal development of MACT standards. The City of Baltimore must demonstrate how they chose these limits and how these limits can be achieved through a thorough evaluation of currently operating facilities. This information must be publicly available and reviewed prior to being adopted. Such a selection of limits should not be made lightly as they could have detrimental effects for all facilities throughout the country.

Compliance timelines

The timelines for compliance with the new requirements are not feasible given the need for design, permitting, equipment purchase, construction, installation, and testing. Any facility changes will require permits from MDE. Permitting with MDE for new air pollution equipment alone is a minimum of 180 days. However, it often extends to a year or more. At present, this bill provides less than a year to before compliance begins. In addition, we are unaware of any permit process for air emissions for the City of Baltimore. How would that work?

Costs

NWRA understands the cost to implement Council Bill 18-0306, including the installation of air pollution control systems and/or monitoring equipment may be exorbitant. Given that an economic analysis is conducted on a Federal level in conjunction with the installation of required RACT or Best Available Control Technology (BACT), the cost implications of this Bill should also be considered prior to taking an action on it.

Targeted legislation and jurisdiction

The City of Baltimore has targeted incinerators with this legislation. If the concern was for the environment, the City would target the largest emitters, rather than incinerators. In addition, it is unclear whether the City of Baltimore has considered the alternative for disposal should these facilities shutdown. A study comparing current disposal methods versus alternative disposal methods should be conducted prior to implementation of this Council Bill 18-0306. This study should encompass the lifecycle of alternate means of disposal and their associated impacts.

In addition, air emissions are not local issues, but rather state and national, even international issues. Air does not remain in one place. The City of Baltimore's air generally travels to the southeast. This is why air emission regulations are appropriately handled by U.S. EPA and MDE. Not only do they manage environmental regulations, they have air emissions specialists on staff who have the training and expertise to regulate air emissions and the impacts of these emissions.

NWRA urges the City of Baltimore to reconsider Council Bill 18-0306 – Health Code – Clean Air Regulation, or an amendment thereof. NWRA appreciates your consideration of our comments and would appreciate the opportunity to discuss these comments further to clarify any points. Should you have any questions, please call Anne Germain at 202-364-3724 or e-mail at agermain@wasterecycling.org.

Very truly yours,

A handwritten signature in black ink that reads "Darrel K. Smith". The signature is written in a cursive style and is placed on a light gray rectangular background.

Darrel K. Smith
President & CEO

c: Mayor Catherine E. Pugh
Baltimore City Council Members