



March 08, 2023

The Honorable Kumar P. Barve
House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, Maryland 21401

Re: House Bill 1088 - Emissions Standards, Ambient Air Quality Standards, and Solid Waste Management - Local Authority

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed House Bill 1088 and would like to provide the Committee with the following information.

Air Standards: Section 2-104 of the Environment Article currently allows a political subdivision to adopt ordinances, rules, or regulations that set air emission standards or ambient air quality standards. House Bill 1088 would expand upon this provision by permitting the governing body of any political subdivision to ask the Department to adopt rules and regulations that set more restrictive emission standards or ambient air quality standards in that political subdivision. The local standard may not be construed to be in conflict with standards set by the Department so long as the local standard is at least as stringent as the Department's standard, and it is technically possible for a regulated entity to comply with both standards.

Solid Waste Standards: House Bill 1088 would also provide that any ordinance, rule, or regulation that a political subdivision enacts to regulate refuse disposal systems or solid waste may not be construed to be in conflict with standards set by the Department if the local standard is at least as stringent as the standard set by the Department.

Potential Issues: While MDE appreciates the consideration of allowing political subdivisions to potentially meet more stringent standards, counties and municipalities would be able to set standards under this bill, which could result in multiple standards being established within a relatively small location and create overlapping but distinct requirements which may be confusing for the regulated community.

Unintended consequences for air emission and ambient air quality standards are that HB 1088 is unclear with regard to who determines what is "technically possible" under § 2-104(c) of the Environment Article, which causes uncertainty and could be problematic for implementation. In addition HB 1088 could further codify the potential for differences between the federal Clean Air Act, the Department's authority, and local ordinances and rules. Any new ambient air quality standard or standards for hazardous air pollutants should be required to follow a rigorous scientific, health-based, and cost effective analysis.

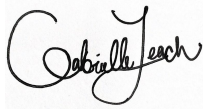
Another unintended consequence of dual local government and state regulation of refuse disposal systems and other solid waste facilities could be the removal or closure of some facilities from the current waste management system due to the cost and complexity of dual compliance. If this were to occur, the waste at

these facilities would still need to be managed and remaining facilities may become inundated or reach capacity or end-of-life sooner than anticipated.

MDE does not know how many political subdivisions would enact their own standards or how many existing refuse disposal systems and other solid waste facilities would be affected. Under HB 1088, the Department's Solid Waste Program workload would increase as existing refuse disposal systems and other solid waste facilities would be required to update their operational manuals to account for local standards. MDE would need to perform both a technical review to ensure sufficient public health, public safety, and environmental protection and a legal review to ensure local standards are at least as stringent as state standards. Depending on the needed changes, MDE's technical review may be lengthy and require a public hearing, which could slow down the permitting process and potentially create a permit backlog.

Thank you for your consideration. We will continue to monitor HB 1088 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-453-3235 or by e-mail at gabrielle.leach@maryland.gov.

Sincerely,

A handwritten signature in black ink that reads "Gabrielle Leach". The signature is written in a cursive style with a large initial "G".

Gabrielle Leach, Deputy Director
Legislative and Intergovernmental Relations

cc: The Honorable Tony Bridges
Tyler Abbott, Director, Land and Materials Administration