NACAA
national association of clean air agencies

March 21, 2016

Janet McCabe
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Dear Janet:

We are writing to you on behalf of the National Association of Clean Air Agencies (NACAA) to express concern that there are sources emitting major amounts of hazardous air pollutants (HAPs) – substances that are listed under Section 112(b) of the Clean Air Act – that are currently unregulated and for which there are no applicable source categories listed under Section 112(c) and, consequently, no national Maximum Achievable Control Technology (MACT) standards. For the reasons we articulate below, we are requesting that EPA formally evaluate the completeness of the source category list under Section 112(c) and, further, that the agency develop a MACT standard for a category of special concern – the methyl bromide fumigation source category.

NACAA is a national, non-partisan, non-profit association of air pollution control agencies in 40 states, the District of Columbia, four territories and 116 metropolitan areas. The air quality professionals in our member agencies have vast experience dedicated to improving air quality in the United States. These comments are based upon that experience. The views expressed in this document do not necessarily represent the positions of every state and local air pollution control agency in the country.

In order to assess the magnitude of this problem, NACAA recently collected information from its members about sources located throughout the country that emit major amounts of HAPs for which there are no applicable source categories under Section 112 and compiled it in a document available at http://www.4cleanair.org/sites/default/files/Documents/MajorHAPSourcesNoMACT-update-3-14-16.pdf. While many agencies provided information, this should not be considered an exhaustive and comprehensive list of every source in the United States.

Section 112(c)(1) calls for EPA to publish a list of all categories and subcategories of major sources and area sources of HAPs listed in the Clean Air Act, which EPA did for the first time on July 16, 1992. However, the language of

the subsection also states that the Administrator should not only publish the list but, "shall from time to time, but no less often than every 8 years, revise, if appropriate, in response to public comment or new information, a list of all categories and subcategories of major sources and areas sources." Section 112(c)(5) also states that the Administrator "may at any time list additional categories and subcategories of sources of hazardous air pollutants according to the same criteria for listing applicable under such paragraphs" and provides a timeline for establishing standards for the new categories. Clearly Congress intended for EPA to evaluate new information and consider the need for additional categories at least every eight years.

To our knowledge, EPA has very infrequently added new source categories to the list and has never published a review of the unregulated major source population. Accordingly, we request that EPA now undertake a formal evaluation of the completeness of the source category list, taking into consideration the information we have collected, among other data.

After compiling and analyzing the list of sources emitting major amounts of HAPs that are in the source categories EPA has not addressed, NACAA identified the categories of greatest concern to our members. The first and most critical is the category of fumigation facilities that emit methyl bromide. While EPA should evaluate all of the source categories on the list NACAA has compiled, the members recommend that EPA place a high priority on this category. To further emphasize the importance of this source category, NACAA offers the following additional information for EPA's consideration.

Fumigation with Methyl Bromide

Methyl bromide, a HAP as well as a volatile organic compound (VOC), is a colorless, odorless nonflammable gas. As a fumigant, methyl bromide is used to control a number of pests, including rodents, insects, and fungi, in warehouses, agricultural fields and shipping containers. Inhalation of methyl bromide can cause headaches, dizziness, fainting, apathy, weakness, confusion, speech impairment, visual effects and numbness. Inhalation of higher concentrations of methyl bromide can cause paralysis, lung injury, kidney damage and injury to the heart[1]. At high concentrations, methyl bromide is dangerous and life-threatening, as evidenced by a recent episode in which an American family vacationing in St. John was severely injured by exposures to high levels of the substance. Although methyl bromide is a banned ozone-depleting substance, unlimited exemptions for its manufacture and use during fumigation activities continue.

Fumigation is an activity that has generally been performed at ports across the nation. There are various methods to conduct these operations, such as fumigating the commodity with only a tarp cover in a parking lot, fumigating the commodity while in a closed-door shipping container, fumigating under tarps in a building and fumigating in a closed chamber designed for this purpose. During the fumigation period, the fumigant concentration must remain above certain commodity-specific thresholds. Aeration, or the exhaust of the fumigation vapor space, frequently occurs at ground level. Facilities can be located on and off port property in warehouses near public populations.

[1] http://www3.epa.gov/airtoxics/hlthef/methylbr.html

Currently, United States Department of Agriculture fumigation regulations address exposures to workers. However, there are not adequate federal measures in place under the Clean Air Act to protect the general public from methyl bromide emissions. Considering the ground-level exhaust, combined with the heavier-than-air vapor density of methyl bromide, the increasing number of these facilities located in proximity to the public and the increasing risk of adverse health effects on the population, EPA should expeditiously develop a MACT standard for methyl bromide fumigation.

Currently states and localities in various areas of the country are faced with commodity fumigation facilities that are major sources of HAPs (over 10 tons per year of methyl bromide emissions). The facilities in operation have been constructed both before and after the implementation deadlines for case-by-case MACT under Section 112(g). At least one fumigation case-by-case MACT permit has been issued since 2005, with several more applications having been submitted in various states. This disparate regulatory regime for new and existing sources creates uneven public health protections for the residents of these jurisdictions, which should be addressed through a national measure.

Additionally, this patchwork approach results in a competitive disadvantage for areas where new sources are subject to case-by-case MACT permitting, as compared to jurisdictions with existing sources that may be exempt from all federal HAP regulation. Some states that investigate and propose methyl bromide controls have been informed that operations will simply be transferred to fumigation locations in other states. Not only do some regulatory agencies spend extensive resources on case-by-case MACT reviews, they risk losing the economic benefits of trade, jobs and taxes simply because they are taking the necessary steps to protect public health from exposure to methyl bromide. The current situation creates regulatory inconsistency and an interstate commerce issue that can be remedied by a single national rule regarding commodity fumigation.

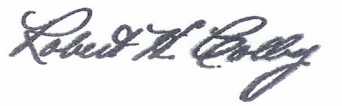
With respect to available controls for methyl bromide commodity fumigation operations, some NACAA members have conducted significant research on this topic. Control technology is currently in use and has been demonstrated to reduce emissions of fumigation HAPs by about 90 percent. These agencies can share their information with EPA.

Finally, EPA's recently announced National Enforcement Initiatives for FY 2017-2019, issued on February 18, 2016, include a focus on reducing hazardous air pollutants, especially in overburdened areas. We believe addressing methyl bromide fumigation operations is consistent with this goal.

Given the potential public health dangers posed by continued operation and expansion of uncontrolled or under controlled on-port or off-port facilities, the interstate economic imbalances resulting from a patchwork approach and the fact that there are viable control measures in operation, NACAA recommends that EPA add methyl bromide fumigation operations to the list of source categories for regulation pursuant to Section 112(c). Further, EPA should then propose and promulgate a MACT standard as expeditiously as possible.

Thank you for this opportunity to provide you with this information. We look forward to working with EPA as you pursue listing appropriate additional source categories. Please contact us or Mary Sullivan Douglas, NACAA's Senior Staff Associate, if we can provide additional information or if you wish to discuss this issue further.

Sincerely,



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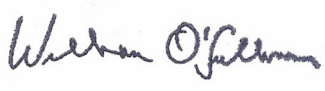

William O'Sullivan
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