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March 29, 2017

Karen Marsh
Sector Policies and Programs Division
Office of Air Quality Planning and Standards
U.S. Environmental Protection Agency
Research Triangle Park, NC 27711
Submitted via www.regulations.gov

Re: Docket EPA-HQ-OAR-2016-0490, National Emission Standards for Hazardous
Air Pollutants: Publicly Owned Treatment Works

Dear Ms. Marsh:

The Municipal Environmental Group – Wastewater Division (MEG) is an association of more than 100 municipalities throughout the state of Wisconsin who own and operate wastewater treatment facilities. For more than 25 years, MEG has been an advocate for municipalities in matters relating to regulation of Publicly Owned Treatment Works (POTWs).

MEG appreciates the opportunity to comment on the proposed amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for POTWs. MEG has a number of concerns with the proposed amendments, including that these amendments will: expand applicability of the NESHAP to a greater number of POTWs through inclusion of the collection system as part of the “major source” determination; add a significant cost burden for POTWs; create confusion regarding which POTWs fall

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within the Group 1 category; institute requirements that will be technically difficult for POTWs to meet; and provide an insufficient timeframe for compliance. MEG's comments below provide details about these concerns.

I. Applicability of the POTW NESHAP

Under the proposed rule, the POTW NESHAP would apply to any POTW with a design capacity of at least 5 MGD that is either a Group 1 or Group 2 POTW. A Group 1 POTW is a POTW that accepts a wastestream regulated under another NESHAP from an industrial user and acts as the control mechanism for compliance with that other NESHAP. A Group 2 POTW is a POTW that is a major source of HAP emissions. EPA's amendments provide that HAP emissions from collection systems are to be included in the major source determination. This has the potential to increase the number of POTWs to which the NESHAP applies and requires POTWs to make a technically and practically difficult determination regarding the amount of emissions from the collection system.

Federal law defines a "major source" as "a stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate of 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants." 42 U.S.C. § 7412(a)(1). A collection system, which can consist of hundreds or thousands of miles of sewers and other equipment, clearly falls outside of this definition of "major source." Inclusion of the collection system as part of the major source determination would run counter to the definition of major source and has the potential to significantly increase the number of POTWs subject to the NESHAP. EPA should reconsider its inclusion of the collection system as part of the major source determination on this basis.

Moreover, it would be extremely difficult (if not impossible) for a POTW to accurately estimate and control emissions from a collections system. As stated above, collections systems can consist of hundreds or thousands of miles of sewers, pump stations, and other equipment that is not always owned by the POTW. Given these practical limitations, it is not feasible for a POTW to estimate, let alone control, the emissions from the collections system.

II. Additional Cost Burden

MEG anticipates that the rule changes EPA is proposing could add a significant cost burden to POTWs. MEG does not believe EPA has adequately considered costs

associated with estimating emissions from POTWs, influent sampling, monitoring emissions, creating and updating emissions models, and adding controls to meet the 0.08 HAP fraction performance standard, among other costs. MEG requests that EPA fully evaluate all the costs that this rule would impose on POTWs.

III. Group 1 Category

As state above, the proposed amendments define a Group 1 POTW as a POTW that accepts a wastestream regulated under another NESHAP from an industrial user and acts as the control mechanism for compliance with the other NESHAP. In the preamble to the proposed rule, EPA states that Group 1 POTWs would be in contractual agreements with industrial dischargers that the POTW would act as the control mechanism for the industrial NESHAP.

MEG is concerned, however, that there may be instances in which the POTW would not necessarily know that it is acting as the control for the industrial NESHAP. Some POTWs accept a significant amount of waste from industrial users, and the fact that the industrial user is subject to an industry NESHAP may not always be captured in a contractual agreement with the POTW. This could result in POTWs becoming subject to the POTW NESHAP without their knowledge. EPA should clarify this rule to ensure that POTWs are only subject to the POTW NESHAP when they have full knowledge that they are acting as a control mechanism for the industry NESHAP.

IV. HAP Fraction Performance Standard

Once a POTW comes under the purview of the POTW NESHAP, it is required to demonstrate that the HAP fraction emitted from all points up to secondary treatment does not exceed 0.08. Calculating whether a POTW is meeting this standard at all emissions points up to secondary treatment with sufficient accuracy would be extremely difficult and costly for many POTWs.

EPA suggests that rather than require a POTW to meet the 0.08 HAP fraction, it could allow an existing POTW to follow the cover and control requirements for new sources. MEG does not support this alternate compliance option, which would cost POTWs millions of dollars to implement.

Given the technical difficulty of calculating compliance with the 0.08 HAP fraction emission standard and the low risk from HAP emissions, MEG requests that EPA eliminate the HAP fraction performance standard, reconsider the standard, and/or

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consider alternative compliance options that would not impose unreasonably costly requirements on POTWs.

V. Compliance Timeframe

EPA is proposing that existing POTWs would effectively have to come into compliance within one year of publication of the final rule. This is not a sufficient amount of time given the steps necessary for compliance. POTWs to which the NESHAP will apply will have to evaluate emissions, develop plans for emissions control, and plan for inspection and monitoring of facilities. They must also coordinate planning for compliance with the POTW NESHAP with facilities plans under the CAA and CWA, which adds an additional time burden. EPA should extend the compliance timeframe to make compliance more realistic for POTWs.

One compliance timeframe issue arises with respect to the requirement that a POTW subject to the POTW NESHAP must implement a pretreatment program. Development, approval, and implementation of a pretreatment program can take many years. If a POTW becomes subject to the POTW NESHAP and does not already have a pretreatment program in place, it may be impossible for the POTW to receive program approval from the applicable authority in the time allowed to comply with the NESHAP. EPA should reconsider the pretreatment program requirement and at a minimum adjust rule language so that a POTW would not be in violation of the NESHAP due to the amount of time necessary to establish a pretreatment program.

Thank you for consideration of these comments. Please contact Paul Kent at pkent@staffordlaw.com or Vanessa Wishart at vwishart@staffordlaw.com with any questions.