

Congress of the United States

Washington, DC 20510

October 12, 2018

VIA ELECTRONIC DELIVERY

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Acting Administrator Wheeler:

We write in response to a letter we received from Assistant Administrator Bill Wehrum from the U.S. Environmental Protection Agency's (EPA) Office of Air and Radiation dated September 27, 2018.

The Trump Administration has characterized EPA's mission as returning to a "back-to-basics" agenda, which includes achieving clean air. For the residents of Willowbrook, Illinois, who have among the highest cancer risk in the country, reducing exposure to ethylene oxide through fugitive air emissions is critical to this goal.

That is why in addition to the monitoring and testing we called for in our initial note, we request that you direct funds Congress dedicated to help communities identify cancer clusters to DuPage County. Specifically, Congress approved \$1 million to fund "Trevor's Law," a provision passed in the *Frank R. Lautenberg Chemical Safety for the 21st Century Act*, to help communities determine whether they are a cancer cluster.

We also request that you provide medical monitoring for community members. In a report that was published earlier this year by the Agency for Toxic Substances and Disease Registry (ATSDR) it was noted that workers in sterilization facilities have an increased risk for breast cancer and lymphohematopoietic cancers. In addition to these cancers, we request EPA launch a health assessment that reviews community cancer rates. EPA should also consider the feasibility of monitoring for potential pre-cancerous or non-cancer impacts such as hemoglobin adducts, DNA damage effects, and hematological effects.

While our first priority remains ensuring DuPage County's public health is safeguarded, we understand EPA is under court-order to update regulations on ethylene oxide and that, in the meantime, communities across the country may be vulnerable. As you work to update this rule, we urge you to ensure the rule protects the health of the most vulnerable—including children and the elderly, directs industry to use the best available technology to control their emissions, and is based on science that is peer-reviewed.

Furthermore, we request that EPA conduct field hearings in communities that are being impacted by ethylene oxide, including in DuPage County, as part of its rulemaking. Field hearings will ensure robust and rigorous public participation. They will also allay fears that EPA is engaging in a regulatory process dominated by industry interests.

We also specifically ask you to:

1. Give our offices a clear timeline of EPA's expected deadlines and next steps as it relates to this rulemaking. We are concerned that EPA is not motivated to work swiftly, and urgently, on updating its National Emission Standards for Hazardous Air Pollutants for ethylene oxide commercial sterilization and fumigation operations. EPA determined at the end of the Obama Administration that ethylene oxide is a known carcinogen, however, since then, EPA has not sought to strengthen the public health standard regulating the gas.
2. Prioritize air monitoring at and around facilities that use ethylene oxide and alert the community when ambient ethylene oxide concentrations are higher than EPA's new safety standard. In EPA's response to us, EPA indicated that it is gathering additional information from facilities using ethylene oxide. We reiterate our request that EPA prioritize monitoring and testing for ethylene oxide, specifically, as part of this effort. This data must be publicly accessible. In addition to public data, communities must be alerted via email or their mobile devices when a monitor detects a leak, or the averaged ambient concentrations are higher than EPA's new safety standard.

Furthermore, ATSDR's report indicates that, from a comparison of short-term samples to 12 hour samples collected by EPA, there is daily variability in which there are higher emissions from the facility at certain hours. Continuous monitoring is required as the facility is a 24 hour operation, and near-surface concentrations are higher during nighttime than the daytime due to meteorology. Continuous monitoring is the only way to ensure that the emission reductions from pollution controls are effective and long-lasting.

3. Require an inventory of potential exposures for communities adjacent to ethylene oxide sterilization sites. We need to understand which communities are at risk from exposure of ethylene oxide. An inventory of all communities that lie within or are adjacent to facilities that use ethylene oxide will ensure we understand where the hazards exist. This should include an area of at least five miles from the facility in question. This inventory should include all industries that release significant amounts of ethylene oxide, like chemical plants

that make ethylene oxide or have ethylene oxide emissions as a byproduct (*i.e.* facilities that ethoxylate chemicals).

4. Ensure that staff who will be engaged in the writing of the updated regulation are free from conflicts of interests and commit to using rigors peer-reviewed science. As you know, there are a number of staff at EPA who have previously represented the chemical industry and have worked on ethylene oxide issues, specifically. We request that you direct these staff to sign recusals to ensure that the regulatory process is free of any conflict of interest that would otherwise exist.

Last week EPA published a document titled *A Working Approach for Identifying Potential Candidate Chemicals for Prioritization under the Toxic Substances Control Act (TSCA)*. Our staff are reviewing this document and we will follow up with recommendations on how EPA should consider ethylene oxide under TSCA.

Thank you for your consideration of this request.

Sincerely,

		
Tammy Duckworth United States Senator	Richard J. Durbin United States Senator	Bill Foster United States Representative

cc. Ms. Cathy Stepp, Region 5 Administrator, U.S. Environmental Protection Agency
cc. The Honorable William Wehrum, Assistant Administrator, Office of Air and Radiation, U.S. Environmental Protection Agency