

Congress of the United States

Washington, DC 20510

February 13, 2019

VIA ELECTRONIC DELIVERY

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20004

Dear Acting Administrator Wheeler:

We write to request that you, as Acting Administrator of the U.S. Environmental Protection Agency (EPA), take several steps to protect the community of Willowbrook, Illinois, which is facing a public health threat posed by a Sterigenics sterilization facility.

The Sterigenics facility uses ethylene oxide (EtO), classified as a known carcinogen in 2016, that has been under scrutiny after EPA's National Air Toxics Assessment and a report by the Agency for Toxic Substances and Disease Registry (ATSDR) indicated the community there has an increased cancer risk. Data published last week by EPA indicates that despite installing pollution control equipment high levels of EtO were measured, threatening the health of Willowbrook residents. Last week's data was collected from eight air monitors placed throughout Willowbrook as part of a three-month effort to collect data near the Sterigenics facility to better understand the levels of EtO in the air. The data from these monitors are alarming. In one instance, the EtO detected was 350 times more than the level deemed safe by EPA.

To that end, we request that you direct EPA to do the following:

1. Require an emission audit of Sterigenics, to be conducted by a third-party and unbiased engineering firm;
2. Immediately issue an interim final rule for Sterilizers using your authority under Section 553(b)(B) of the Administrative Procedure Act;
3. Direct the Criminal Enforcement Division at Region 5 to open an investigation into alarming allegations made by former Sterigenics employees in a CBS News article that was published on February 3, 2019¹;
4. Immediately terminate the comment process on EtO's updated risk assessment for regulatory purposes that was buried in EPA's December 20, 2018, Residual Risk and Technology Review (RTR) for Hydrochloric Acid;
5. Investigate whether Sterigenics violated its conditional registration of EtO under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA);
6. Continue ambient air monitoring around Sterigenics, beyond the current 3-month plan, and ensure the results of monitoring are made publicly available; and
7. Commission a Nationwide study on the background levels of EtO.

¹ <https://chicago.cbslocal.com/2019/02/03/sterigenics-covered-up-toxic-emissions-operated-secret-plants/>

In your response, we request that you provide us with a clear timeline of when you will initiate each of the requests made above and reasonably expect to complete.

Conduct an EtO emission audit at Sterigenics

Sterigenics sterilizes equipment in chambers that are found in two separate buildings. Products are routinely moved in-and-out of these buildings, and we are concerned that, in addition to the emissions from the back-vent, there are other pathways for fugitive EtO emissions. EPA must work with Sterigenics on determining if there are any steps the company can take immediately that will reduce the exposure risk to Willowbrook.

Immediately use authority to publish an interim final rule for Sterilizers

We understand EPA is working on updating its regulations for ethylene oxide and that this process will take time, but the residents of Willowbrook need relief now. That is why we are requesting EPA to immediately publish an interim final rule for sterilizers, which EPA has the authority to do under Section 553(b)(B) of the Administrative Procedure Act and Section 112 of the Clean Air Act. This provision provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. Simply put, in extraordinary cases, when harm can be done if action is not immediately taken, EPA must be compelled to act in the public interest without delay. It is evident from the alarming ambient air data published by EPA this week that your Agency would be well within its right to use this authority.

Open a criminal investigation into allegations of misconduct by former employees

We are also concerned that Sterigenics employees have been exposed to undue risk. A CBS News report detailed alarming allegations of misconduct by senior management at this very facility by former employees. Among the allegations made were failure to accurately self-report EtO emissions, improper venting practices, failure to protect workers with respirators and masks and dumping ethylene glycol into public sewage drains. It is critical that you immediately direct your Criminal Enforcement Division to open a criminal investigation into these claims. Doing so will reassure the workers there that they have not been forgotten.

Abandon unprecedented effort to diminish EPA's EtO risk assessment

Two weeks ago, we sent a letter expressing alarm and opposition to EPA's inclusion of EtO in a rulemaking that was published on a separate chemical, Hydrochloric Acid. This rule included a transparent invitation for chemical industries to propose ways to weaken EPA's forthcoming policies meant to protect communities from cancer risk resulting from exposure to EtO. EPA must abandon this comment process and use its own assessment for determining inhalation risk values. Doing otherwise would be a departure and contradiction to the Agency's own longstanding policy.

Investigate Sterigenic's conditional registration of EtO under FIFRA

Furthermore, we are concerned that Sterigenics may have violated the conditions EPA has set upon them under FIFRA. Sterigenics has a conditional registration under FIFRA, which means that the company is subject to specific rules in regards to the use, storage, and disposal of EtO. It

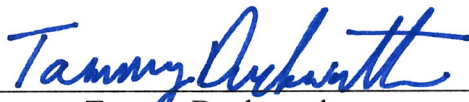
also includes special requirements on personal protective equipment for workers at this facility. Based on the claims made by former employees by the CBS news article, EPA must investigate whether a violation of this law has occurred. If a violation has been found, EPA would have the authority under FIFRA Section 14(a) and 14(b) to pursue civil and criminal action against the Company.


Commission a Nationwide study on the background levels of EtO

Earlier this year, in an effort to undermine EPA's data collection efforts and to cause confusion among community members, Sterigenics initiated a report by Ramboll. This report claimed to have found high levels of EtO throughout the Chicagoland area. Although we do not dispute that there is background levels of EtO in urban areas, we cannot rely on a report commissioned by Sterigenics or the chemical industry to be used to make any scientific determination. In order to settle this debate, we request you to commission a nationwide report to determine what the background level of EtO actually is.

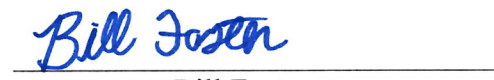
It is time for EPA to move from fact-finding to acting on this public health threat in Willowbrook. We appreciate your attention and timely response to this urgent request.


Sincerely,

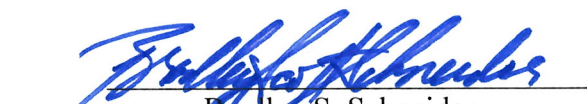

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