

July 8, 2020

VIA ELECTRONIC DELIVERY

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency (EPA)
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20004
Dear Administrator Wheeler:

The U.S. Environmental Protection Agency (EPA) is beginning a National Emission Standards for Hazardous Air Pollutants (NESHAP) rulemaking process for ethylene oxide (EtO) commercial sterilization and fumigation operations. In this process it is imperative that EPA exercise its full authority to regulate EtO under the Clean Air Act (CAA). Specifically, in order to ensure the highest level of protection for exposed populations, we urge EPA to meet its CAA requirements by performing all statutorily required reviews under Section 112 of the CAA. Doing so will ensure that EPA is best positioned to assess and quickly address the cancer and other public health risks posed by our nation's major sources of EtO.

The law requires EPA to perform a Section 112(d)(6) review under the CAA. This section of the law requires EPA to determine the maximum degree of emissions reduction possible for all EtO sources. EPA must also implement the maximum achievable control technology (MACT) at point sources. However, if the agency limits itself to only assessing achievable technology and does not assess any residual risk that cannot be reduced through control technology, risks to public health, including an elevated risk of cancer, may remain after the identified technologies are implemented. In order to identify and address any remaining risks to public health, EPA should exercise its authority to perform a Section 112(f)(2) review in addition to the Section 112(d)(6) review. This second type of review under the CAA requires the EPA to assess whether additional risk reductions are necessary to protect public health or the environment and to then develop any necessary standards to address these remaining risks.

When EPA last assessed EtO emissions standards in 2006, it conducted both a technology review and a residual risk review at the same time. In our view, it is imperative that EPA undertake both types of review for commercial sterilization and fumigation operations in order to identify and reduce the unacceptable risks to public health posed by release of EtO at these facilities. Both types of review are needed because EPA recently identified an EtO cancer risk for these facilities that exceeds EPA's 'acceptable' threshold, and because the human health risks used in the 2006 review have been updated in EPA's 2016 health assessment for the chemical.

As you know, EPA's 2018 National Air Toxics Assessment (NATA) provided an overview of facilities emitting EtO and the risks that each facility poses to their surrounding communities. This report identified 25 facilities that emitted EtO at rates high enough to increase cancer risk for the surrounding communities above the EPA's "acceptable" threshold of 100 per 1 million cancer diagnosis. These risks weigh heavily on us and our constituents. Long-term exposure to EtO emissions is linked to an increased risk for cancer, as well as adverse impacts on

reproductive health and pregnant women. Short-term exposure can contribute to other issues including respiratory irritation, lung damage, nausea and vomiting. The agency should comply with its mission and do all it can to reduce these risks to the public.

We ask that EPA provide a response to this letter by July 17, 2020. Specifically, we would like to know whether EPA will perform a 112(f)(2) review under the CAA.

Thank you in advance for your consideration and we look forward to your response. If you have any questions please reach out to Radha Adhar with Senator Duckworth's office at 202-224-2324 or Annie D'Amato or Michal Freedhoff of the Environment and Public Works Committee staff at 202-224-8832.

Sincerely,

Tammy Duckworth
Ranking Member
Fisheries, Water and Wildlife
Subcommittee

Thomas R. Carper
Ranking Member
Committee on Environment and
Public Works

Richard J. Durbin
United States Senator

Jeffrey A. Merkley
United States Senator

Kamala D. Harris
United States Senator

Chris Van Hollen
United States Senator

Edward J. Markey
United States Senator

Elizabeth Warren
United States Senator

Cory A. Booker
United States Senator

Dianne Feinstein
United States Senator

Kirsten Gillibrand
United States Senator