

Environmental Protection Agency
EPA Docket Center (EPA/DC)
Mail Code 28221T
1200 Pennsylvania Ave. NW
Washington, DC 20460

Subject: Comments for National Emission Standards for Hazardous Air Pollutants (NESHAP):
Ethylene Oxide Emissions Standards for Sterilization Facilities Residual Risk and Technology Review

Docket ID No. EPA-HQ-OAR-2019-0178

Submitted: June 27, 2023

Dear EPA Staff,

The undersigned legislative members of the Texas House and Senate are concerned about the communities in our state affected by Ethylene Oxide (EtO) sterilization facilities. We welcome the opportunity to comment on the proposed EPA rule to curb the hazardous emissions these sterilization plants pose to our Texas workers and neighboring families.

We understand the proposed rule is estimated to cut both fugitive and stack emissions of EtO from these plants by as much as 80 percent when the rule is implemented. Though we appreciate this projected goal, we would like the following measures included in the rule to help ensure the end results of this action meet its intended outcome:

1. **Require Fenceline Monitoring:** Fenceline monitoring is a reliable and useful tool to understand the amount of fugitive, controlled and uncontrolled emissions coming from commercial sterilizers. Both the workers within the plants and the communities surrounding the facilities need to be assured that they are protected. Fenceline monitoring is a proven method, as evidenced in other facilities, for verifying the effectiveness of emission control equipment in detecting fugitive emissions.
2. **Inclusion of Off-site Storage Warehouses:** The proposed rule covers EtO emissions from commercial sterilizers and their on-site warehouses and other on-site storage areas. The proposed rule, however, does not cover **off-site** warehouses and/or storage areas. We are concerned that off-site warehouses, not included in the rule, could be used as a secondary aeration area for off-gassing sterilized equipment, skirting the health-protective emission controls and monitoring that is to be required at the primary facilities. High levels of fugitive emissions have been discovered in off-site warehouses in other parts of the country. Many, if not all, off-site warehouses are not regulated by the Clean Air Act and do not contain the emissions controls systems necessary to capture residual EtO that is off-gassed from newly sterilized equipment. Evidence suggests that off-site storage warehouses can generate significant hazardous EtO emissions. For example, in 2019, the Georgia Environment Protection Division issued a notice of violation to Beckon, Dickinson and Company, a medical sterilization company, for operating an off-site warehouse in Covington without an air quality permit.¹ Therefore, we request that off-site storage facilities be included in the rule.

¹Statement from Georgia EPD Regarding BD Notice of Violation. (2019, December 20). Environmental Protection Division. <https://epd.georgia.gov/press-releases/2019-12-20/statement-georgia-epd-regarding-bd-notice-violation>

3. **Shorten the Implementation and Compliance Timeline:** Communities have long awaited the development of this new EtO rule, having faced decades of hazardous and carcinogenic pollution from these facilities. The EPA has proposed an 18-month timeline for the installation of pollution controls once the final rule is issued. Every month these controls are not installed poses an increased risk to plant workers and surrounding communities. We would like to propose an expedited timeline of no more than 6 months for implementation to protect the public's health and safety.

4. **EPA must continue to require that all EtO commercial sterilizers be covered in the final rule:** We are grateful that EPA requires both major and area source commercial sterilizers to comply with the requirements of the proposed rule. It is especially important for states like Texas, since the Texas Commission on Environmental Quality's (TCEQ) cancer risk estimate for EtO is far below EPA's. We urge EPA to keep this requirement in the final rule in order to protect the health and safety of communities like ours.

Finally, since many of these facilities are located in underserved communities of color where English is not spoken as a first language, we would request that multilingual information on the facilities and surrounding risks to neighboring communities be made available.

We thank the EPA for considering our comments on this important rule to tighten the emissions standards for EtO sterilization facilities. We look forward to seeing the finalization of this rule and its implementation to protect the families and communities of Texas.

Sincerely,

Texas State Senators:




Senator Carol Alvarado, District 6



Senator José Menéndez, District 26



Senator Sarah Eckhardt, District 14



Senator Judith Zaffirini, District 21



Senator Roland Gutierrez, District 19



Senator Nathan Johnson, District 16

Texas State Representatives:



Representative Salman Bhojani, District 92



Representative John Bryant, District 114



Representative John Bucy III, District 136



Representative Yvonne Davis, District 111



Representative Jessica González, District 104



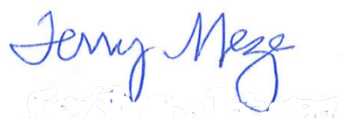
Representative Vikki Goodwin, District 47



Representative Julie Johnson, District 115



Representative Venton Jones, District 100



Representative Terry Meza, District 105



Representative Neave Criado, District 107



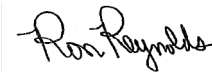
Representative Mihaela Plesa, District 70



Representative Ana-Maria Ramos, District 102



Representative Richard Raymond, District 42



Representative Ron Reynolds, District 27



Representative Toni Rose, District 110



Representative Chris Turner, District 101



Representative Gene Wu, District 137



Representative Erin Zwiener, District 45

Additional Texas State Representatives:

A handwritten signature in blue ink, appearing to read 'Rafael Anchia', written in a cursive style.

Representative Rafael Anchia, District 103

A handwritten signature in black ink, appearing to read 'Jarvis Johnson', written in a cursive style.

Representative Jarvis Johnson, District 139