

Congress of the United States

Washington, DC 20515

November 26, 2007

Mr. Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Johnson:

We are writing to express our serious concerns regarding the Environmental Protection Agency's (EPA) proposed rule listed in the Federal Register on June 15, 2007, Expansion of the Resource Conservation and Recovery Act (RCRA) Comparable Fuel Exclusion (72 FR 33284).

This rule seeks to expand by more than eight times the current amount of hazardous waste reclassified as Comparable Fuel and excluded from all hazardous waste regulations. With an expansion of this magnitude, it is imperative that all relevant information be made available to the public so that potentially affected communities are afforded the right to comment on such a serious proposal, pursuant to 5 U.S.C. §§ 553(b)(3) and 553(c).

In issuing the proposed rule, however, the EPA never made available the exact facilities expected to handle and dispose of the deregulated waste. This information was released only after the comment period ended. The communities surrounding these eighty-six facilities were unaware that the rule would directly affect them and should be allowed to comment in light of this new information.

Further, these communities deserve to know the impact of the proposed rule on the surrounding air quality and environment. The EPA only completed national testing, and those results concluded that "when [the deregulated hazardous waste] with higher concentrations of certain hydrocarbons and oxygenates than fuel oil is burned even under good combustion conditions, emissions of hazardous organics may be somewhat higher than those from burning fossil fuel." In fact, out of 175 test conditions for hazardous waste, 24 exceeded oil emissions.

Unfortunately, the newly released information on the eighty-six facilities that will actually handle, and in most cases burn, the waste reveals that ninety percent of them have not been in full compliance with the RCRA regulations for hazardous waste treatment and disposal. It is therefore reasonable to expect that many of these facilities are likely to continue mismanaging the deregulated waste. This greatly enhances the risk of the proposed rule, and this risk must be fully evaluated and presented to the public.

We therefore request that the EPA complete an assessment of environmental problems associated with excluding Emission-Comparable Fuel from hazardous waste regulations, including specific evaluations at each facility. A similar assessment was recently completed in order to conduct a more thorough study of the potential impacts of the regulatory changes listed in the Federal

Register on March 26, 2007 in the Supplemental Proposed Rule concerning Revisions to the Definition of Solid Waste (57 FR 14172). Such a study is warranted for a rule that may increase harmful emissions, even by the EPA's estimation.

As Congress and the Administration work to clean our air and reduce greenhouse gas emissions, we must take extreme caution in deregulating the storage, treatment and disposal of hazardous waste. We urge you to fully study the impact of this proposed rule and reopen the comment period for affected parties to act on such pertinent information. We look forward to your response.

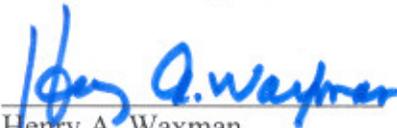
Sincerely,



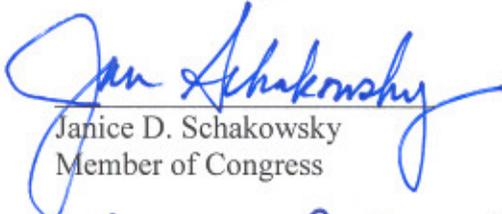
Mark Kirk
Member of Congress



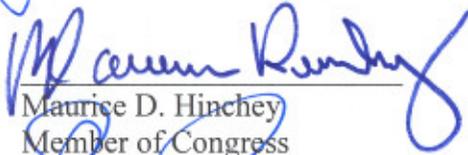
Michael N. Castle
Member of Congress



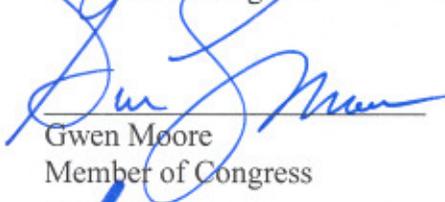
Henry A. Waxman
Member of Congress



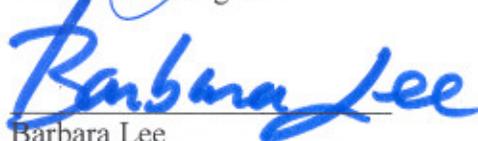
Janice D. Schakowsky
Member of Congress



Maurice D. Hinchey
Member of Congress



Gwen Moore
Member of Congress



Barbara Lee
Member of Congress



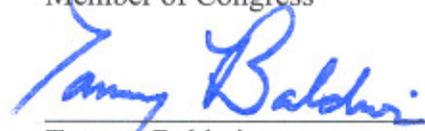
Hilda L. Solis
Member of Congress



Albert Russell Wynn
Member of Congress



Gene Green
Member of Congress



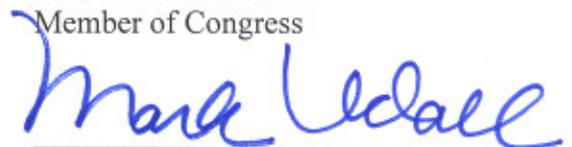
Tammy Baldwin
Member of Congress



Melissa L. Bean
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Dennis J. Kucinich
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Mark Udall
Member of Congress



G.K. Butterfield
Member of Congress



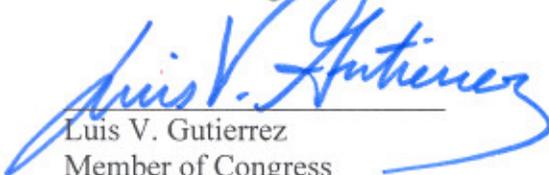
Louise M. Slaughter
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Keith Ellison
Member of Congress



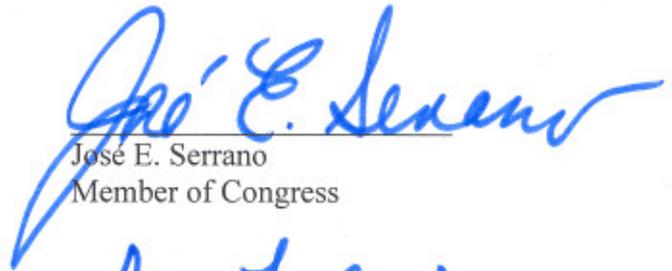
Raúl M. Grijalva
Member of Congress



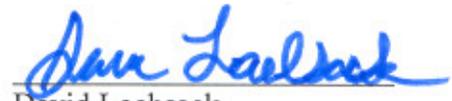
Luis V. Gutierrez
Member of Congress



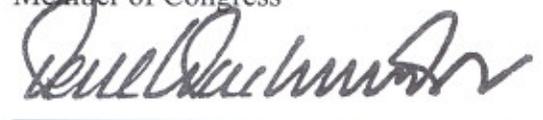
Paul W. Hodes
Member of Congress



José E. Serrano
Member of Congress



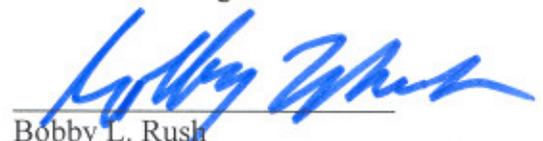
David Loeb sack
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Jesse L. Jackson, Jr.
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Donald M. Payne
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Bobby L. Rush
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