

## **Lawsuit challenges Bush-era exemptions on burning waste**

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Environmental groups sued U.S. EPA in federal court today over a Bush-era rule that exempts some hazardous wastes burned as industrial boiler fuel from Resource Conservation and Recovery Act requirements. The Sierra Club and Louisiana Environmental Action Network say the rule dismantles safeguards on wastes with toxins linked to cancer. They filed their petition at the U.S. Circuit Court of Appeals for the District of Columbia.

The rule, which was finalized in December, creates a class of RCRA-exempt wastes dubbed "emission-comparable fuel" that can be burned in industrial boilers if the emissions are comparable to those from burning fuel oil. It could exempt more than 100,000 tons of additional materials a year from the waste law's disposal requirements -- what Jim Pew, an Earthjustice attorney representing the groups, called "regulatory hocus-pocus."

Pew said the rule creates new risks for people in Louisiana, which has a large number of chemical plants and refineries that could use the exemption. It also creates risks in areas where the waste could be sent for burning absent the RCRA safeguards. "This stuff is still hazardous waste," Pew said. "Saying it is something else does not make it less hazardous for the people who are likely to be exposed to it."

Environmental groups also say removing RCRA mandates stripped away rules aimed at preventing leaks, spills and toxic emissions. In a statement, they said the rule allows facilities that create and transport the wastes to avoid "tracking, permitting, closure and financial assurance requirements" under RCRA. EPA, in announcing the rule last year, said it promotes using wastes for energy without compromising safety. A spokeswoman for EPA said that the agency will review the lawsuit and respond accordingly. Pew said the groups would seek in a subsequent brief to have the rule thrown out.

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