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August 22, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

I write to express my concerns with the Environmental Protection Agency's (EPA) inaction in the face of repeated violations of Subtitle D of the Resource Conservation and Recovery Act (RCRA) by noncompliant landfills on the island of Puerto Rico.

It has been reported to me that nearly two-thirds of the Island's municipal solid waste landfills are out of compliance with RCRA. For example, some landfills lack basic engineering requirements, allow giant piles of trash to sit uncovered and unlined, permit the entry of unsorted materials with unknown toxicity levels such as leachate that could enter water systems, and do not control methane gas emissions which left unchecked has caused frequent fires. Furthermore, according to local environmental organizations there are grave concerns that the increase in leachate liquid associated with these toxic landfills may be exacerbating the breeding of mosquitoes that are known vectors of the Zika virus on the Island. Such gross violations of the RCRA require legal action, and the EPA is authorized to take such steps under Section 7003 of RCRA in order to remedy "imminent and substantial endangerment of health or the environment."

As of March 2016, the EPA and local authorities have issued a total of nine "closure orders" to landfills in Puerto Rico that are too dangerous to stay open. Despite these orders of closure, none of the noncompliant landfills have been closed or brought into compliance, including some of which received closure orders more than 10 years ago. It appears that the enforcement mechanism used by the EPA and local authorities to penalize or to require compliance from toxic landfills is not working. I am alarmed that this pattern of noncompliance continues and it has gone on for far too long. This pattern places the environment and public health of the people of Puerto Rico at great risk and must be addressed.

Given the urgency of these circumstances, please provide answers to the following questions as soon as possible:

1. What action is the EPA taking to ensure that all municipal solid waste landfills in Puerto Rico, the U.S. territories and the mainland United States, including my district in Chicago, comply with existing environmental regulations?
2. What are the standards that the EPA uses to determine whether a landfill has complied with the RCRA? Are these standards different based on whether the landfill is located on the mainland United States or in a U.S. territory?

3. What are the various enforcement mechanisms that the EPA can utilize, in addition to closure orders, to conduct effective oversight of landfills in the U.S.? Are these enforcement mechanisms different based on whether the landfill is located on the mainland United States or in a U.S. territory?
4. What is the EPA doing to monitor and address any adverse public health or environmental impacts that result from these noncompliant landfills, including ensuring that the condition of the landfills is not exacerbating the growing Zika epidemic on the Island?

Thank you for your consideration of my concerns and for your responses to the above items. In addition, if you have any further questions please contact Rafael Hurtado of my staff at 202-225-8203.

Sincerely,



Luis V. Gutiérrez

Member of Congress