



At a Glance

Why We Did This Project

The U.S. Environmental Protection Agency's Office of Inspector General conducted this evaluation to determine what actions the EPA took to verify compliance with the requirements of the 2009 Toxic Substances Control Act Premanufacture Notice Consent Order with DuPont (responsibilities transferred to The Chemours Company in 2015) to prevent the release of GenX chemicals in the Cape Fear River in North Carolina.

GenX chemicals are a type of per- and polyfluoroalkyl substances, known as PFAS, found in surface water, groundwater, drinking water, rain water, and air emissions. There is toxicological evidence that some PFAS chemicals have adverse developmental and immunological effects in animals and humans.

This report addresses the following:

- Ensuring the safety of chemicals.

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EPA Toxic Substances Control Act Consent Orders Need Better Coordination

What We Found

We found insufficient communication and coordination between the two EPA offices responsible for developing and enforcing the consent order requirements designed to reduce risks in the manufacture of GenX chemicals.

Regions need to be aware of the TSCA Section 5(e) Consent Orders in their region, and the Office of Enforcement and Compliance Assurance should approve, in advance, the terms and conditions of each consent order.

In 2008, the EPA received premanufacture notices from DuPont to manufacture two new GenX chemicals. In 2009, the Office of Chemical Safety and Pollution Prevention issued the company a TSCA Premanufacture Notice Consent Order with terms and conditions related to the manufacturing of the chemicals. The Consent Order required the company to determine how to recover and capture 99 percent of GenX's manufacturing discharges and air emissions. However, the Consent Order was not reviewed or approved by the Office of Enforcement and Compliance Assurance, which is responsible for conducting inspections to verify compliance. Until June 2017, the EPA's actions to verify compliance with the 2009 Consent Order and new chemicals testing requirements consisted of tracking and reviewing information provided by the manufacturer.

Following the local media coverage of the presence of GenX chemicals in the Cape Fear River in 2017, Region 4 and EPA contractors conducted the EPA's first on-site compliance monitoring inspection at the Fayetteville Works facility, which manufactures GenX. We found that the Region 4 inspectors were unaware of the 2009 Consent Order and its requirements until the inspection was requested by EPA headquarters.

Recommendations and Planned Agency Corrective Actions

We recommend that the EPA establish and implement processes:

1. For the Office of Enforcement and Compliance Assurance to review and approve the terms and conditions of TSCA Section 5(e) Consent Orders that it is responsible for verifying during compliance monitoring and enforcement activities.
2. To provide final TSCA Section 5(e) Consent Orders to regions and verify that the regions have the final consent orders.

The EPA did not provide an acceptable corrective action for Recommendation 1, and we consider this recommendation unresolved. For Recommendation 2, the Agency provided an alternative course of action that we find acceptable. We consider Recommendation 2 resolved with corrective action pending.