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Office of Inspector General report finds problems with EPA consent order

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The United States Environmental Protection Agency (EPA) Office of Inspector General (OIG) released a report, *EPA Toxic Substances Control Act Consent Orders Need Better Coordination*,^[1] based upon the requirements of the 2009 Toxic Substances Control Act (TSCA) premanufacture notice consent order with DuPont.

“Until June 2017, 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,” wrote Lynn Bergeson and Carla Hutton.^[2] “According to OIG, following the local media coverage of the presence of GenX chemicals in the Cape Fear River in 2017, Region 4 and EPA contractors conducted EPA’s first on-site compliance monitoring inspection at the Fayetteville Works facility, which manufactures GenX. OIG found that the Region 4 inspectors were unaware of the 2009 Consent Order and its requirements until the inspection was requested by EPA headquarters.”

The OIG had the following recommendations:

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; and
2. To provide final TSCA Section 5(e) Consent Orders to regions and verify that the regions have the final consent orders.

¹ Environmental Protection Agency, *EPA Toxic Substances Control Act Consent Orders Need Better Coordination*, May 28, 2020, <https://bit.ly/2MYIjzD>.

² Lynn Bergeson, Carla Hutton, *National Law Review*, “EPA OIG Finds TSCA Consent Orders Need Better Coordination,” May 29, 2020, <https://bit.ly/2XSNUNc>.

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