

Congress of the United States
Washington, DC 20515

November 15, 2023

The Honorable Michael S. Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Regan,

We write to express our concerns regarding the U.S. Environmental Protection Agency's (EPA) decision to allow The Chemours Company (Chemours) to import 4,409,245 pounds of waste containing hexafluoropropylene oxide (HFPO) dimer acid and its ammonium, known as "GenX," from their overseas facility to the Fayetteville Works facility in North Carolina. State agencies, elected officials, and utility companies were unaware of this decision. It is concerning this has been allowed given the presence of toxic chemicals in our communities' drinking water resulting in contamination in at least eight counties in the Cape Fear River Basin. To this day, we still do not fully know the scope of the presence and impact of these chemicals. It should be no surprise that we find the news of these imported chemicals to the Fayetteville Works facility where extensive water contamination has occurred for years to be disturbing

While the initial decision to allow the shipment of waste to the United States is worrisome enough, the behavior and actions taken by the EPA following the decision is perplexing and of utmost concern. First, when this decision was eventually made public by a third-party, the EPA asserted it lacked the authority to deny the shipment because it is bound by international treaty on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, known as the Basel Convention. However, less than two weeks later, the EPA announced plans to reevaluate its decision. While we consider it welcome news, what new information led to this reverse?

Further, for years, the EPA has been outspoken about its efforts to combat GenX, PFAS, PFOA, and other per-and-poly fluoroalkyl substances. In October of 2021, the EPA issued a press release citing plans to add GenX as a hazardous substance under the Resource Conservation and Recovery Act (RCRA). Around the same time, the EPA issued its Final Human Health Toxicity Assessment for GenX, which showed potential for various adverse health impacts. This should have significantly changed the process for importing GenX and should have required the EPA to notify the State receiving the waste, yet this does not appear to have been done. In March 2023, the EPA issued a proposed National Primary Drinking Water Regulation (NPDWR) to establish legally enforceable levels, called Maximum Contaminant Levels (MCLs), for six PFAS in drinking water, including GenX. Yet despite the EPA's well documented and obvious concern regarding GenX, your Agency has permitted the import of this contaminated waste for years.

Lastly, while we understand the EPA is not required by RCRA to notify a State when approving the import of non-hazardous chemicals, the lack of transparency and proactive notification is problematic and a breach of common courtesy at best. As a result, these officials were a step behind when communicating with residents. Before your role as Administrator of the Environmental Protection Agency, you served as Secretary of the North Carolina Department of Environmental Quality. It therefore defies logic that the State was not informed of this decision. One could easily argue it was a breach of responsibility.

As a result of these actions, we request written answers to the following questions by no later than November 30, 2023:

1. Since its creation in 2005, how many import shipments of GenX waste has EPA approved and at what levels?
2. What quantity of imported GenX waste material does the EPA consider permissible and how are these levels determined?
3. Did the EPA consider the impacts of the recycling and recovery process Chemours is conducting with the GenX waste prior to providing consent?
4. Given the NCDEQ Consent Agreement with Chemours, has EPA modified their process for allowing imports of GenX waste?
5. Given the aforementioned EPA action on GenX, has EPA modified their process for approving imports of GenX waste?
6. What efforts has your agency taken to support the State of North Carolina in mitigating the presence of GenX beyond the mandates of the Consent Agreement?

In addition to answering the above questions, we ask that you provide all communications between EPA staff regarding the conditional consent approval, as well as all communications the EPA has had with officials from the State of North Carolina regarding the conditional consent approval and the imported GenX waste. Thank you for your prompt attention to this request.

Sincerely,



David Rouzer
Member of Congress



Thom Tillis
United States Senator



Richard Hudson
Member of Congress

Enclosures: Letters from Gov. Roy Cooper, Brunswick County Commissioners, and New Hanover County Board of Commissioners