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FEATURED

## State reaches cleanup settlement with FMC Corp.

**CLEANUP:** Company agrees to \$2.4 million settlement that includes consent order to address contamination.

Staff reports 1 hr ago



This file photo shows part of the FMC Corp. plant in Middleport. Gov. Andrew Cuomo's office announced that the company has agreed to enter into a \$2.4 million settlement tied to the cleanup of contamination in and around the facility.

The state of New York has reached a settlement on the cleanup of arsenic and other hazardous contamination affecting areas in and around the FMC Corp. facility in Middleport.

Gov. Andrew Cuomo on Friday announced that the company has agreed to what his office described as one of the largest environmental enforcement actions in state history, a \$2.4 million deal that includes the payment of penalties and \$1 million for a community-based environmental benefit project.

"When the health of our communities is threatened, we aggressively pursue polluters and hold them accountable," Cuomo said. "The state is already working diligently to protect the public from contamination released by the FMC Corporation and this comprehensive enforcement agreement requires the company to reimburse taxpayers millions of dollars for past cleanup actions and invest hundreds of millions more until the job is done."

FMC Corporation's Middleport facility is a 103-acre pesticide formulation and packaging plant that previously manufactured arsenic-based pesticides and other chemical products. The primary contaminant of concern at this site is arsenic, which has been detected at elevated levels of up to 60,000 parts per million (ppm) on-site, and approximately 4,000 ppm off-site. Other contaminants include methylene chloride, pesticides such as DDT, and other organic and inorganic compounds.

Cuomo's office said uncontrolled stormwater runoff, flood events, spills, releases, overflows, and air deposition have contaminated sediment, surface water, soil, and groundwater at the facility's property and off-site areas including residential and commercial properties and the adjacent Royalton-Hartland Central School property. In addition, contamination has migrated to negatively impact miles of creeks and culverts downgradient of the FMC facility, adversely impacting birds, fish, and wildlife in the Jeddo and Johnson Creek drainage basins.

The DEC's enforcement actions include a consent order that requires the cleanup of all contaminated areas both on-site and off-site and avoids a protracted and costly legal battle that could have stalled cleanup progress for years. A prior 1991 Administrative Order on Consent with the United States Environmental Protection Agency (EPA) is terminated and replaced by DEC's new order, which requires a more thorough approach to address arsenic and other chemical impacts to the facility, residences, the school, and natural resources.

DEC Commissioner Basil Seggos described the settlement as "significant" and a "major victory for environmental justice."

"Most importantly, it's a victory for the residents of the Niagara County neighborhoods who, through this consent order, are ensured that the environmental contamination is cleaned up by the polluter," Seggos said.

Officials from FMC Corp. confirmed on Friday that the company has entered into an Order on Consent and Administrative Settlement with the New York State Department of Environmental Conservation that will serve as the framework for activities related to the remediation of on-site and off-site areas impacted by historical operations at the Middleport plant. The Order on Consent was also approved by the United States Environmental Protection Agency, the company noted.

The settlement is consistent with FMC's financial commitments previously reported in the Company's 2018 Form 10-K filing. Under the new Order, NYSDEC will continue to undertake environmental remedial work through the 2020 construction season, with FMC taking over the remediation work after 2020.

"FMC employees have lived and worked in the Middleport area community for decades," said Roberta Kloda, FMC Middleport plant manager. "All parties involved are working together with the same goal in mind – to continue protecting human health and the environment while maintaining safe operations at the facility."

Major highlights of the new consent order include:

- FMC will reimburse the State \$31 million for costs related to the cleanup performed through the end of 2018. These funds will be returned to the State Superfund Program where they can be used to accelerate other critical cleanup projects;
- A \$1 million environmental benefit project to help compensate the community for the impacts created by FMC's contamination;
- FMC will reimburse DEC up to \$15 million per year over the next two years (2019-20) for costs incurred by the State as it completes the cleanup of surrounding residential properties and the Royalton-Hartland School;

- FMC will assume all cleanup responsibilities after 2020 with stringent DEC oversight until the State determines the work is complete;
- FMC will pay penalties of \$2.4 million to resolve decades of violations at the facility. A portion of the penalty will help fund habitat restoration projects related to past wildlife impacts caused by chemical releases;
- The settlement of outstanding state environmental violations will help the company protect current jobs at the facility and enable it to plan for potential future growth;
- FMC will fund an on-site environmental monitor at the facility and implement a site management plan to prevent future environmental violations;
- The facility will be required to fully upgrade the on-site wastewater treatment plant and expand the groundwater collection system to provide full hydraulic control and prevent off-site migration of groundwater contamination and
- A substantial increase in financial assurance to \$80 million to ensure that funds will be available to address the contamination.

The site is currently regulated by DEC as both a State Superfund site and a facility subject to Resource Conservation and Recovery Act (RCRA) corrective action. Additional information about the site can be found at DEC's FMC Middleport Facility webpage: <https://www.dec.ny.gov/chemical/54220.html>.

Residents who have questions about the settlement or FMC's plans can contact Jessica Heideman, FMC's Community Liaison, at 716-735-9769 or visit her at the FMCCommunity Office at 8 S. Vernon Street in Middleport. Walk-in hours are 9 a.m. to 2 p.m. on Mondays, Tuesdays, and Thursdays. Other times are available by appointment. Special evening hours will also be available to area residents over the next few weeks.

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