

RCRA Environmental Process in Middleport

The New York State Department of Environmental Conservation (NYSDEC) (or the “Agency”) is responsible for the implementation of the Resource Conservation and Recovery Act (RCRA) program in New York State under delegated authority from the U.S. Environmental Protection Agency (USEPA).

After negotiations concluded with NYSDEC and EPA on termination of the 1991 Administrative Order on Consent (AOC), the 2019 Order on Consent was entered and provides that NYSDEC will oversee all related RCRA investigatory and/or remedial work, as appropriate, including as it pertains to arsenic and other chemical compounds such as lead and chlorinated pesticides, that may be associated with FMC’s historic operations at the Middleport plant. This includes a determination of when such potential impacts have been adequately defined in the Operable Unit (OU) study areas.

From a process standpoint, FMC must first complete RCRA Facility Investigations (RFI) of applicable OUs, which are summarized in formal reports that will include all data collected from the designated OUs sampled. The RFI reports are then to be submitted to NYSDEC for review, and made available for public review and comment, to the extent not already completed.

NYSDEC will then evaluate sampling results to determine if any immediate remedial action (Interim Corrective Measures, or ICMs) or if a Corrective Measures Study (CMS) is needed for areas evaluated by the RFI reports.

If directed by NYSDEC, a CMS will be performed by FMC to identify and evaluate various remedial alternatives, and as appropriate, to recommend a remedial or corrective measure alternative. The CMS is one of several steps in the selection of final corrective measures. Selection of a final corrective measure for an OU is based on a number of required criteria that include community/property owner acceptance, technical, environmental, human health, institutional, cost, and green remediation practices.

The CMS Report and NYSDEC’s preliminary or draft decision on any final remedial action(s) will be available for review by the public. After public comments have been received, NYSDEC will respond to the comments and issue its determination of the final corrective measure(s). The RCRA process and the selection of a final cleanup action, if warranted, can take several years to complete.

Some Basic RCRA Terminology

RCRA (Resource Conservation and Recovery Act) — A federal law enacted in 1976 to protect human health and the environment with respect to the management and disposal of solid wastes and to support the recovery and reuse of materials.

RFI (RCRA Facility Investigation) — Soil and water are tested to characterize the nature and extent of releases, and to support the Corrective Measures Study.

CMS (Corrective Measures Study) — Part of the RCRA process. This study uses information from the RFI to determine what, if any, remediation is needed.

CMI (Corrective Measures Implementation) — Part of the RCRA Process. CMI phase involves the design and implementation of a chosen remedy.

Middleport's RCRA Program

The Overall Process

