

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
NOTICE OF COMPLETE APPLICATION  
NOTICE OF AVAILABILITY OF DRAFT PART 373 PERMIT  
NOTICE OF PUBLIC COMMENT PERIOD  
NOTICE OF PART 624 LEGISLATIVE PUBLIC HEARING**

**FMC CORPORATION**

**Applicant:** FMC Corporation, 100 Niagara Street, Middleport, NY 14105 (FMC). NYSDEC Hazardous Waste Management Facility Permit Application No. 9-2936-00017/02004; EPA ID No. NYD002126845

**Application:**

The New York State Department of Environmental Conservation (DEC) has reviewed the Hazardous Waste Management Facility permit application submitted by FMC pertaining to their Middleport Hazardous Waste Management Facility located in the Village of Middleport, Niagara County. The application has been determined to be complete by DEC for purposes of further DEC review and public comment pursuant to 6 NYCRR 621.7.

**Facility Description and Proposed Action:** The facility at 100 Niagara Street in Middleport has been used for the manufacture and/or formulation of pesticide products since the 1920s, when Niagara Sprayer Company began operations, producing primarily sulfur, lime, arsenic, and lead based pesticides. FMC purchased the facility in 1946 and continued operations, with primary manufacturing also including dinitrocresol, karbutilate, carbofuran, and dithiocarbamate pesticides. FMC ceased pesticide manufacturing operations at the facility in 1985, and since that time has conducted only formulating (i.e., mixing and blending) and packaging operations at the facility. Major crop protection products currently formulated or packaged at the facility include Furadan (carbofuran), Talstar (bifenthrin), and Command (clomazone).

The facility comprises approximately 103 acres. The plant security fence encloses approximately 83 acres, including all operational facilities. The facility is bounded (clockwise, beginning to the west) by: 1) residential properties and South Vernon Street to the west; 2) a commercial business, vacant commercial/industrial land (including the "Wooded Parcel"), Alfred Street, the Royalton-Hartland school district property, agricultural land, and railroad tracks to the north; 3) agricultural land to the east; 4) an electrical substation and commercial businesses to the southeast; and 5) State Route 31 to the south. A drive-in theater, a church, a park, commercial businesses, and residential properties are located south of Route 31.

The facility has three regulated surface impoundments that are addressed in the draft permit: the Eastern Surface Impoundment is an inactive surface impoundment with a temporary soil cover. FMC will be required to close this unit as per the requirements in the draft permit. The Western Surface Impoundment has been repurposed as a lined collection pond for contaminated surface water run-off from the north site cover and groundwater prior to treatment at the on-site waste water treatment plant. The Central Surface Impoundment has been closed and must operate according to a post closure plan.

The draft permit establishes the requirements for a corrective action program for the facility. The corrective action program is divided into operable units or OUs. An OU represents a portion of a remedial program for a facility that for technical or administrative reasons can be addressed separately to investigate, eliminate or mitigate a release, a threat of release or an exposure pathway resulting from site contamination. The number and subject of OUs at the FMC facility have changed over time. Currently, the facility is divided up into 11 OUs, both on the facility site and in off-site areas. A complete description of the OUs is provided in Exhibit B of the draft permit.

**State Environmental Quality Review Act (SEQRA) Status:** In its role as lead agency under SEQRA, DEC staff determined that the proposed action is a Type II action, not subject to further review under SEQRA.

**How to Provide Written Comments:** Section 621.7 of 6 NYCRR provides the public with the opportunity to become involved in the regulatory process for FMC's project through the submission of written comments. Written comments concerning DEC's SEQRA determination, the permit application, and the conditions and terms of the draft permit may be mailed to Michelle Woznick, Environmental Analyst, NYSDEC Region 9, 270 Michigan Avenue, Buffalo, NY 14203-2915 or emailed to Ms. Woznick at [DEP.R9@dec.ny.gov](mailto:DEP.R9@dec.ny.gov).

Written comments will be considered equally with oral statements delivered at the legislative/public comment hearing, provided they are received by October 20, 2017.

**Legislative/Public Comment Hearing:** Two legislative/public comment hearings will be held pursuant to 6 NYCRR part 624 to hear and receive unsworn statements from the public concerning DEC's SEQRA determination, the permit application, and the conditions and terms of the draft permit. The hearings will be conducted by Administrative Law Judge (ALJ) Michael S. Caruso at the Middleport Fire Department, 28 Main Street, Middleport, New York on Wednesday, September 27, 2017, beginning at 1:00 p.m. and 7:00 p.m. All persons, organizations, corporations or government agencies that may be affected by the project are invited to attend the hearing and to submit oral or written comments regarding DEC's SEQRA determination, the permit application, and the conditions and terms of the draft permit. While it is not necessary to file in advance to speak at the hearing, lengthy comments should be submitted in writing and summarized for oral presentation. Reasonable time limits may be set for each speaker as necessary to afford all attendees an opportunity to be heard. The hearing location is fully accessible to persons with mobility impairment. Translator services shall be made available, at no charge, upon written request to the ALJ at least 10 days prior to the hearing. Interpreter services shall be made available to deaf persons, at no charge, upon request to the ALJ at least 10 days prior to the hearing. All requests must be made to Judge Caruso at: New York State Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, 1<sup>st</sup> Floor, Albany, NY 12233-1550 or emailed to Judge Caruso at [dec.sm.OHMS@dec.ny.gov](mailto:dec.sm.OHMS@dec.ny.gov).

In addition, the hearings will be preceded by public availability sessions at 12:00 p.m. and 6:00 p.m. on September 27, 2017 at the same location as the hearings. The purpose of the public availability session will be for NYSDEC staff to answer questions that the public may have on the technical, environmental, and procedural aspects of the draft permit.

**Issues Conference:** Pursuant to 6 NYCRR 624.4(b), a pre-adjudicatory issues conference will be held. A public notice of issues conference will be published explaining the purpose of the issues conference and provide persons seeking to participate in the issues conference with

instructions for filing petitions for party status as well as the deadline for submitting a petition and the time and location of the issues conference. If no petitions for party status are filed with respect to the issues, or if any filed objections are withdrawn and the issues are satisfactorily resolved before the issues conference, the issues conference will be canceled and no adjudicatory hearing will be held. If the ALJ determines that there are adjudicable issues, the ALJ will schedule an adjudicatory hearing to address those issues.

**Document Availability:** FMC's application, FMC documents that are incorporated into the draft permit by reference and the draft permit are available for review at the following locations during normal business hours:

- DEC, Division of Environmental Remediation, 625 Broadway, 12th Floor, Albany, NY 12233-7017 (contact person: Deborah Gardell at (518) 402-9813);
- DEC's Region 9 office, 270 Michigan Avenue, Buffalo, NY 14203-2915 (contact person: Michelle Woznick at (716) 851-7165); and,
- Royalton Hartland Community Library, 9 S. Vernon Street, Middleport, New York.

Electronic copies of FMC's application and FMC documents that are incorporated into the draft permit by reference are available through the following web site:

- FMC's website <http://www.fmc-middleport.com/>

Electronic copies of the DEC Fact Sheet, and the draft permit (including the modules and attachments), are available through the following web site:

- NYSDEC's website <http://www.dec.ny.gov/chemical/54220.html>.

Further information may be obtained by calling Deborah Gardell at (518) 402-9813.

**Applicable Statutes and Regulations:** This application is being processed pursuant to Environmental Conservation Law article 1 (General Provisions), article 3 (General Functions), article 27 (Hazardous Waste Management) and article 70 (Uniform Procedures), as well as 6 NYCRR part 373 (Hazardous Waste Management), part 621 (Uniform Procedures) and part 624 (Permit Hearing Procedures).

James T. McClymonds  
Chief Administrative Law Judge  
August 9, 2017  
Albany, New York