

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

August 10, 2026 1:16 pm

USEPA – Region II

Regional Hearing Clerk

In the Matter of

Rochester Midland Corporation,

**CONSENT AGREEMENT AND
FINAL ORDER**

Respondent.

Proceeding to Assess a Civil Penalty
Under Section 14(a) of the Federal
Insecticide, Fungicide, and Rodenticide
Act, 7 U.S.C. § 136l(a)

Docket No. FIFRA-02-2026-5100

CONSENT AGREEMENT

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 1361(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (CROP) as codified at 40 C.F.R. Part 22. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 2.

3. Respondent is Rochester Midland Corporation, a New York corporation, located at 155 Paragon Drive, Rochester, New York 14624 (hereinafter Respondent or "Rochester Midland" or "RMC").

4. The parties agree that settling this action without the filing of a Complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

5. Respondent consents to the assessment of the civil penalty specified in this Consent Agreement and Final Order (CAFO) and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

6. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

7. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), and any rights it may have to contest the allegations in this CAFO or to appeal this CAFO.

8. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

Statutory and Regulatory Background

9. Section 2(u)(1) of FIFRA, 7 U.S.C. § 136(u)(1) defines a “pesticide” as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”

10. Section 3 of FIFRA, 7 U.S.C. § 136a, generally requires the registration of a pesticide for its lawful distribution and sale in the United States.

11. Forty C.F.R. § 152.15(a)(1) states that, “a substance is considered to be intended for a pesticidal purpose and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance (either by itself or in combination with any other substance) can or should be used as a pesticide.”

12. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “distribute or sell” to mean to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.

13. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines a “person” as any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

14. Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), states that it is unlawful for any person to distribute or sell any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration.

15. Section 14(a)(I) of FIFRA, 7 U.S.C. § 136/(a)(I), provides that any registrant, commercial applicator, wholesaler, dealer, retailer or other distributor who violates any provision of FIFRA may be assessed a civil penalty by EPA of not more than \$5,000 for each offense. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through 2015, 28 U.S.C. § 2461, and its implementing regulations at 40 C.F.R. Part 19, increased this amount to \$24,885 for each offense for which a penalty is assessed after January 8, 2025.

Findings of Fact and Alleged Violations

16. Respondent is, and was at all times relevant to these findings of fact and allegations, a corporation, and therefore, a “person” as that term is defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

17. A distributor may sell and distribute a registered pesticide under its own name pursuant to a supplemental distribution agreement provided that the label of the distributor product is the same as that of the registered product. 40 C.F.R. § 152.132.

18. Respondent is a distributor within the meaning of Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

19. As a supplemental distributor of Stepan Company's Detergent Disinfectant Pump Spray (EPA Reg. No. 1839-83), RMC produces and distributes Quat Plus TB (EPA Reg. No. 1839-83-527).

20. In 2020 and 2021, the directions for use on the EPA-approved label for the registered product included the following directions for use:

DISINFECTION, DEODORIZING AND CLEANING - Remove visible soil prior to application of the product. Hold container six to eight inches from surface to be treated. Spray area until it is covered with the solution. Allow product to penetrate and the surface to remain wet for 3 minutes (for Bloodborne Pathogens: allow surface to remain wet for HIV-1 1 minute and for HBV and HCV 5 minutes).

Virucidal Activity – When used as directed, (this product or product name) (kills) (is an effective virucide against) the following organisms on hard, non-porous inanimate surfaces: Canine Parvovirus (ATCC VR-2017), Hepatitis A Virus (University of Ottawa) and Poliovirus Type 1 (ATCC VR-1000) when the treated surface is allowed to remain wet for 10 minutes; Human Coronavirus (ATCC VR-740), SARS associated Coronavirus (ZeptoMetrix), Avian Influenza A strain H3N2 (ATCC VR-2072) and Avian Influenza A strain H9N2 (Charles River laboratories) for 2 minutes; Paramyxovirus (Mumps) (ATCC VR-1438), Rhinovirus type 39 (ATCC VR-340) and Rotavirus (University of Ottawa) for 3 minutes; HIV-1 (associated with AIDS) (Advanced Biotechnologies, Inc.) and SARS-Related Coronavirus 2 (SARS-CoV-2) (USA-WA1/2020 BEI NR-52281) for 1 minute (60 seconds).

21. An insert packaged with RMC's Fill N Go kits, a product containing dry wipes and Quat Plus TB (EPA Reg. No. 1839-83-527), directed end users to pour the liquid over the included dry wipes and then use the moistened wipes on surfaces, instead of spraying the surface to cover and remain wet for the specified period.

22. The directions in the Fill N Go kits were claims that differ from the claims made for the registered product as part of its registration.

23. Between March 2021 and September 2021, there were approximately seven (7) sales and distributions of the Fill N Go kit with claims that differ from any claims made as part of the registered product's registration.

24. Respondent's sales and distributions of Fill N Go kits constituted sales and distributions of a pesticide with claims that differ from the registered product, and each is an unlawful act as described by Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).

25. Each of Respondent's unlawful acts, as alleged herein, is a violation of FIFRA for which a penalty may be independently assessed under Section 14(a)(1), 7 U.S.C. § 136l(a)(1).

Civil Penalty

26. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136/(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$33,893 ("Assessed Penalty"). In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. Complainant also considered EPA's Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act, dated December 2009 (FIFRA ERP).

27. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

28. When paying the Assessed Penalty, Respondent shall:

a. Identify the payment with Respondent's name and the docket number of this Consent Agreement, FIFRA-02-2026-5100.

b. Concurrently or within twenty-four (24) hours of payment, Respondent shall serve proof of payment by email to the following persons:

Cincinnati Finance Division

CINWD_AcctsReceivable@epa.gov

and

Amanda Osborne-Lomax

Enforcement and Compliance Assurance Division

OsborneLomax.Amanda@epa.gov

and

Karen L. Taylor

Office of Regional Counsel

Taylor.Karen@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

29. The Assessed Penalty payment must be received by EPA *on or before* 30 calendar days from the date this CAFO is filed with the Regional Hearing Clerk (the "Filing Date"). Failure to pay the full amount of the penalty, according to the above provisions, will result in the referral of this matter to

the United States Department of Justice and/or the United States Department of Treasury for collection and/or other appropriate action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

30. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts:

- a. Interest: Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within 30 days, interest accrued is waived. If the Assessed Penalty is not paid in full within 30 days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
- b. Handling Charges: Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first 30-day period after the Filing Date. Additional handling charges will be assessed every 30 days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty: A late payment penalty of 6% per annum will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than 90 days. Any such amounts will accrue from the Filing Date.

31. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.

d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

32. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

33. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

General Provisions

34. Respondent certifies that, to the best of its knowledge, it is currently in compliance with FIFRA, 7 U.S.C. §§ 136-136y, and its implementing regulations.

35. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement. Full payment of the penalty shall only resolve Respondent's liability for federal civil penalties for the violations described in paragraph 24 above. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

36. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state or local permit. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and the regulations promulgated thereunder.

37. Compliance with the requirements and provisions of this CAFO shall not constitute a defense to any subsequent (*i.e.*, following the filing of this document) action, suit or proceeding EPA (or the United States on behalf of EPA) may commence pursuant to any applicable federal statutory or regulatory provision for any violation(s) occurring after the date of the execution of the Final Order accompanying this Consent Agreement, or for any violation(s) of FIFRA statutory or regulatory requirements or prohibitions not alleged herein but that may have occurred prior to the date of the execution of the Final Order accompanying this Consent Agreement.

38. Respondent consents to the use of electronic signatures in this matter and to service upon it of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk via electronic mail to the following addressee(s):

Jim White, Chief Executive Officer
Rochester Midland Corporation
155 Paragon Drive
Rochester, NY 14624
jwhite@rochestermidland.com

and

Jacob H Zoghlin
Partner
Underberg & Kessler LLP
300 Bausch & Lomb Place
Rochester, NY 14604
jzoghlin@underbergkessler.com

39. Delivery of the fully executed documents to the email addressee in the above paragraph shall constitute Respondent's receipt and acceptance of the CAFO.

40. Any responses, documentation, and other communication submitted to EPA in connection with this Consent Agreement shall be sent by email to:

Amanda Osborne-Lomax
Lead Paint & Pesticides Compliance Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 2
OsborneLomax.Amanda@epa.gov

and

Karen L. Taylor
Waste and Toxics Substances Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
Taylor.Karen@epa.gov

41. Unless the above-named EPA contacts are later advised otherwise by email, EPA shall address any written future correspondence (including any correspondence related to payment of the penalty in accordance with the provisions of this CAFO), to the addressee identified in the paragraph 38.

42. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent agrees that this CAFO constitutes the entire agreement between the parties and all terms of settlement are set forth herein.

43. The terms of this CAFO bind Respondent, its successors, and assigns. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

44. Each party agrees to bear its own costs and attorney fees in this action.

RESPONDENT:

A handwritten signature in cursive script that reads "James H. White".

BY: _____
(Signature)

NAME: James White

TITLE: Chief Executive Officer

COMPANY NAME: Rochester Midland Corporation

DATE: 07/24/2026

COMPLAINANT:

Douglas McKenna, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 2

FINAL ORDER

The Regional Judicial Officer of EPA, Region 2, concurs in the foregoing Consent Agreement in the case of **In the Matter of Rochester Midland Corporation, FIFRA-02-2026-5100**. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified and incorporated into this Final Order, which is hereby issued and shall take effect when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. § 22.31(b). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3). The effective date of this Order shall be the date of electronic filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2, New York, NY.

Dana P. Friedman

Regional Judicial Officer

U.S. Environmental Protection Agency, Region 2