

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103**



**In the Matter of:** :  
:   
**North Industrial Chemicals, Inc.** : **U.S. EPA Docket No. FIFRA-03-2024-0134**  
**609 East King Street** :   
**York, PA 17403** : **Proceeding under Section 14(a) of the Federal**  
: **Insecticide, Fungicide and Rodenticide Act, 7**  
**Respondent.** : **U.S.C. § 136/(a)**  
:

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 (“Complainant”) and North Industrial Chemicals, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136/(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. The Federal Insecticide, Fungicide and Rodenticide Act (“FIFRA” or the “Act”) authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under the Act for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

**JURISDICTION**

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a).

### **GENERAL PROVISIONS**

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

11. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
12. At all times relevant to the violations alleged herein, Respondent was and is a Pennsylvania corporation with its principal place of business located at 609 East King Street, York, PA 17403.
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. Respondent is a "person" as that term is defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and is subject to the assessment of civil penalties for the violations alleged herein.

15. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a “pesticide” in part, as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”
16. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a “pest” as “any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus bacteria or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under [Section 25(c)(1)].”
17. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines “to distribute or sell” as “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.” *See also* 40 C.F.R. § 152.3.
18. Section 2(p) of FIFRA, 7 U.S.C. § 136(p), defines “label” as “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers;” and defines “labeling” as “all labels and all other written, printed, or graphic matter – (A) accompanying the pesticide or device at any time; or (B) to which reference is made on the label or in literature accompanying the pesticide or device ....”
19. Pursuant to the labeling requirements of 40 C.F.R. §156.10(a)(1), “[e]very pesticide product shall bear a label containing the information specified by the Act and the regulations in this part. The contents of a label must show clearly and prominently the following: (i) The name, brand, or trademark under which the product is sold as prescribed in paragraph (b) of this section; (ii) The name and address of the producer, registrant, or person for whom produced as prescribed in paragraph (c) of this section; (iii) The net contents as prescribed in paragraph (d) of this section; (iv) The product registration number as prescribed in paragraph (e) of this section; (v) The producing establishment number as prescribed in paragraph (f) of this section; (vi) An ingredient statement as prescribed in paragraph (g) of this section; (vii) Hazard and precautionary statements as prescribed in subpart D of this part for human and domestic animal hazards and subpart E of this part for environmental hazards. (viii) The directions for use as prescribed in paragraph (i) of this section; and (ix) The use classification(s) as prescribed in paragraph (j) of this section.”
20. On March 2, 2022, an EPA credentialed inspector working for the Pennsylvania Department of Agriculture conducted an inspection of Respondent at its principal place of business located at 609 East King Street, York, PA 17403.
21. On May 16, 2024, EPA issued Respondent a Notice of Potential Violation and Opportunity to Confer (“NOPVOC”).

**Count I**  
**Selling/Distributing a Misbranded Pesticide**

22. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
23. Under FIFRA Section 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person in any State to distribute or sell to any person “any pesticide which is adulterated or misbranded.”
24. FIFRA Section 2(q), 7 U.S.C. § 136(q), states, “a pesticide is misbranded if – (1)(F) the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended. . . [and] (2)(C) there is not affixed to its container. . . the registration number assigned to the pesticide. . . .”
25. Sodium Hypochlorite Solution (“SHS”) is a pesticide registered under EPA Registration Number 41971-1 as an end use product for disinfection of potable water and sanitizing food or dairy equipment.
26. From October 16, 2020 through February 25, 2022, the label for SHS contained directions for manufacturing use products, even though it was only registered as an end-use pesticide.
27. From October 16, 2020 through February 25, 2022, the EPA Registration Number on the label for SHS was “EPA Reg. No. 4197-1” which is not the assigned EPA registration number of 41971-1.
28. Respondent made five (5) sales of SHS between October 16, 2020 and February 25, 2022 with labels that did not contain proper directions for use or the correct EPA registration number.
29. From October 16, 2020 through February 25, 2022, Respondent violated FIFRA Section 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E), by selling a misbranded pesticide under FIFRA Section 2(q), 7 U.S.C. § 136(q), due to its improper directions for use and incorrect EPA registration number.
30. Respondent’s five (5) sales/distributions of its SHS pesticide product is a violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(F), for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136(a).

**Count II**  
**Selling/Distributing a Pesticide with a Different Composition**

31. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
32. Under FIFRA Section 12(a)(1)(C), 7 U.S.C. § 136j(a)(1)(C), it is unlawful for any person in any State to distribute or sell to any person “any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration. . . .”
33. From October 16, 2020 through February 25, 2022, the Confidential Statements of Formula for the SHS registration listed a source of Sodium Hypochlorite Solution that had its registration cancelled on July 29, 2002.
34. From October 16, 2020 through February 25, 2022, the sources of incoming Sodium Hypochlorite Solution being used by Respondent were not listed in the Confidential Statements of Formula for the SHS registration.
35. Respondent made five (5) sales of SHS between October 16, 2020 and February 25, 2022 with a composition different from its EPA registration.
36. From October 16, 2020 through February 25, 2022, Respondent violated FIFRA § 12(a)(1)(C), 7 U.S.C. § 136j(a)(1)(C), by selling a pesticide with a composition different from its EPA registration.
37. Respondent’s five (5) sales/distributions of its SHS pesticide product is a violation of 12(a)(1)(C), 7 U.S.C. § 136j(a)(1)(C), for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**CIVIL PENALTY**

38. In settlement of the EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of forty-one thousand and six hundred dollars (\$41,600.00), which Respondent shall be liable to pay in accordance with the terms set forth below.
39. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), including, the following: the size of the business of the person charged, the effect of the person’s ability to continue in business, and the gravity of the violation. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s *FIFRA Enforcement Response Policy* (December 2009) which

reflects the statutory penalty criteria and factors set forth Section 14(a)(4) of FIFRA, 7 U.S.C. § 136(a)(4), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

40. Respondent agrees to pay a civil penalty in the amount of \$41,600.00 ("Assessed Penalty") within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
41. 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>.
42. When making a payment, Respondent shall:
  - a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, [*i.e.*, FIFRA-03-2024-0134],
  - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously **by email** to the following person(s):

T. Chris Minshall  
Sr. Assistant Regional Counsel  
[minshall.chris@epa.gov](mailto:minshall.chris@epa.gov),

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov),

and

U.S. EPA Region 3 Regional Hearing Clerk  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@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 the EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

43. 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, interest, or other charges and penalties per this Consent Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and the EPA is authorized to recover the following amounts.

a. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (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 the EPA's costs of processing and handling overdue debts.

c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days.

44. 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 Consent Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

a. Refer the debt to a credit reporting agency or a collection agency pursuant to 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, 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 the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

d. Request that the Attorney General bring a civil action in the appropriate district court to recover the amount outstanding pursuant to 7 U.S.C. § 136(a)(5).

45. 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.
46. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
47. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed the EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
48. The parties consent to service of the Final Order by e-mail at the following valid email addresses: [[minshall.chris@epa.gov](mailto:minshall.chris@epa.gov)] (for Complainant), and [[tward@nmc-nic.com](mailto:tward@nmc-nic.com)] (for Respondent).

#### **GENERAL SETTLEMENT CONDITIONS**

49. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
50. Respondent certifies that any information or representation it has supplied or made to the EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.



**CERTIFICATION OF COMPLIANCE**

51. Respondent certifies to the EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

**OTHER APPLICABLE LAWS**

52. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the FIFRA, or any regulations promulgated thereunder.

**RESERVATION OF RIGHTS**

53. This Consent Agreement and Final Order resolves only the EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). The EPA reserves any rights and remedies available to it under FIFRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

**EXECUTION /PARTIES BOUND**

54. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

**EFFECTIVE DATE**

55. The effective date of this Consent Agreement and Final Order ("Effective Date") is the date on which the Final Order, signed by the Regional Administrator of the EPA, Region

3, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**ENTIRE AGREEMENT**

56. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: North Industrial Chemicals, Inc.

Date: 07/26/2024

By: Tim Ward  
Tim Ward  
Plant Manager

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: \_\_\_\_\_  
[Digital Signature and Date]  
Karen Melvin, Director  
Enforcement & Compliance Assurance Division  
U.S. EPA – Region 3  
Complainant

Attorney for Complainant:

By: \_\_\_\_\_  
[Digital Signature and Date]  
T. Chris Minshall  
Sr. Assistant Regional Counsel  
U.S. EPA – Region 3

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**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, North Industrial Chemicals, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *FIFRA Enforcement Response Policy (December 2009)*, and the statutory factors set forth in Section 14(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136/(a)(4).

**NOW, THEREFORE, PURSUANT TO** Section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136/(a), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **FORTY-ONE THOUSAND AND SIX HUNDRED DOLLARS (\$41,600.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions

of the Federal Insecticide, Fungicide and Rodenticide Act, and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By: \_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region 3

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**CERTIFICATE OF SERVICE**

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Tim Ward  
North Industrial Chemicals, Inc.  
[tward@nmc-nic.com](mailto:tward@nmc-nic.com)  
609 East King Street  
York, PA 17403

T. Chris Minshall  
Senior Assistant Regional Counsel  
U.S. EPA, Region 3  
[minshall.chris@epa.gov](mailto:minshall.chris@epa.gov)

Holly Raguza  
Compliance Officer  
U.S. EPA, Region 3  
[raguza.holly@epa.gov](mailto:raguza.holly@epa.gov)

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[Digital Signature and Date]  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 3