

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: HYDROGEN PEROXIDE
ANTITRUST LITIGATION

Civil Action No. 05-666

THIS DOCUMENT RELATES TO:
DIRECT PURCHASER ACTION

MDL Docket No. 1682

**NOTICE OF PROPOSED SETTLEMENTS, DISTRIBUTION OF
APPROVED SETTLEMENT FUND, AND REQUEST
OF CLASS COUNSEL FOR ATTORNEYS' FEES AND EXPENSES**

Pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Eastern District of Pennsylvania (the "Court"), you are hereby notified, as set forth hereafter, that class representative plaintiffs ("Plaintiffs") have entered into settlement agreements with the last remaining defendants in the above-captioned action: (i) defendant FMC Corporation ("FMC"), and (ii) defendants Arkema Inc. (f/k/a Atofina Chemicals, Inc. and Elf Atochem North America, Inc.) and Arkema France (f/k/a Atofina S.A. and Elf Atochem S.A.) (collectively, the "Arkema Defendants").

You are further notified of a proposed distribution of funds to be derived from the FMC settlement once it has been approved by the Court, as well as a request by Plaintiffs' counsel ("Class Counsel") for an award of attorneys' fees and expenses.

PLEASE READ THIS NOTICE CAREFULLY IN ITS ENTIRETY, AS IT EXPLAINS YOUR RIGHTS WITH RESPECT TO THE PROPOSED SETTLEMENTS, HOW AND WHEN THE FMC SETTLEMENT FUND WILL BE DISTRIBUTED, AND HOW AND WHEN YOU MUST SUBMIT A PROOF OF CLAIM FORM TO BE ELIGIBLE TO RECEIVE A SHARE OF THE FMC SETTLEMENT FUND. IT ALSO EXPLAINS A REQUEST THAT CLASS COUNSEL WILL MAKE FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES FROM THE FMC SETTLEMENT FUND.

PLEASE NOTE THAT IF YOU HAVE PREVIOUSLY SUBMITTED A TIMELY AND VALID PROOF OF CLAIM WITH RESPECT TO SETTLEMENTS THAT HAVE BEEN APPROVED BY THE COURT WITH OTHER DEFENDANTS IN THIS LITIGATION, YOU DO NOT NEED TO SUBMIT THIS PROOF OF CLAIM IN ORDER TO PARTICIPATE IN THE DISTRIBUTION OF THE FMC SETTLEMENT FUND.

I. BACKGROUND OF THE LITIGATION

As you were previously notified, this lawsuit was filed by Plaintiffs as representatives of all persons who purchased hydrogen peroxide, sodium perborate or sodium percarbonate in the United States or from a facility located in the United States directly from any of the defendants listed below at any time during the period from September 14, 1994 to January 5, 2005 (the "Class Period"). The defendants¹ were manufacturers of hydrogen peroxide, sodium perborate and sodium percarbonate.²

The lawsuit asserts that, as a result of the alleged conduct of the defendants, the prices paid to the defendant manufacturers for hydrogen peroxide, sodium perborate and sodium percarbonate during the Class Period were higher than they otherwise would have been. The lawsuit seeks treble damages, injunctive relief, attorneys' fees and costs from defendants.

PROPOSED SETTLEMENTS WITH FMC AND THE ARKEMA DEFENDANTS

Plaintiffs have entered into proposed settlement agreements with the last remaining defendants in this litigation, FMC and the Arkema Defendants (collectively, the "Settlement Agreements").

¹The defendants initially named in this action were: Akzo Nobel Chemicals International B.V.; Akzo Nobel Inc.; Arkema Inc. (f/k/a Atofina Chemicals, Inc. and Elf Atochem North America, Inc.); Arkema France (f/k/a Atofina S.A. and Elf Atochem S.A.); Evonik Degussa GmbH (f/k/a Degussa A.G.); Evonik Degussa Corporation (f/k/a Degussa Corporation); Eka Chemicals, Inc.; FMC Corporation; Kemira Chemicals, Canada, Inc.; Kemira Oyj; Solvay America, Inc.; Solvay Chemicals, Inc.; and Solvay S.A.

²As you were previously notified, the Court approved settlements with the following defendants in this litigation: Akzo Nobel Chemicals International B.V.; Akzo Nobel Inc.; Evonik Degussa GmbH (f/k/a Degussa A.G.); Evonik Degussa Corporation (f/k/a Degussa Corporation); Eka Chemicals, Inc.; Kemira Chemicals, Canada, Inc.; Kemira Oyj; Solvay America, Inc.; Solvay Chemicals, Inc.; and Solvay S.A. The Court's Orders approving these prior settlements and setting forth the distribution of these claims are final. The deadline for submission of claim forms to share in these settlement funds was December 1, 2008. Only those who filed valid and timely claim forms by the December 1, 2008 deadline will share in the distribution of these prior settlement funds. The Court Approved Claims Administrator is processing these claims, and a distribution of these prior settlement funds to those who filed valid and timely proof of claim forms is expected shortly.

While Plaintiffs believe they have meritorious claims against FMC and the Arkema Defendants, each defendant vigorously denies any liability or wrongdoing. The parties entered into the Settlement Agreements to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation.

Plaintiffs and Class Counsel have concluded that the settlements with FMC and the Arkema Defendants according to the terms of the Settlement Agreements are in the best interests of the members of the Arkema and FMC Settlement Classes (defined below), which are represented by the Plaintiffs. Plaintiffs and Class Counsel have entered into the proposed Settlement Agreements after weighing the benefits of the settlements against the probabilities of success or failure of the lawsuit against the Arkema Defendants and FMC.

The settlements described in this Notice were reached after, and as the result of, extensive, arms-length negotiations and mediation sessions presided over by a United States Magistrate Judge.

For purposes of, and in connection with, the proposed settlements with the Arkema Defendants and FMC, the Court has certified classes for settlement purposes (the “Arkema Settlement Class” and the “FMC Settlement Class”), which are both defined as follows:

All persons or entities, including state, local and municipal government entities, who purchased hydrogen peroxide, sodium perborate, or sodium percarbonate in the United States, its territories or possessions, or from a facility located in the United States, its territories or possessions, directly from any of the defendants named in the Complaint, or any of their present or former parents, predecessors, successors, subsidiaries or affiliates, at any time during the period from September 14, 1994 up to and including January 5, 2005. Excluded from the Settlement Classes are defendants, their present or former parents, predecessors, successors, subsidiaries and affiliates, as well as federal government entities.

The Court has certified the Arkema and FMC Settlement Classes solely for the purpose of settling potential claims against the Arkema Defendants and FMC. No class of plaintiffs is certified in this litigation for any purpose other than the proposed settlements.

(i) **Proposed Settlement with the Arkema Defendants**

On January 28, 2009, Plaintiffs entered into a settlement agreement with the Arkema Defendants. While the proposed settlement with the Arkema Defendants provides no monetary payment to the FMC and Arkema Settlement Classes, it did provide for cooperation by the Arkema Defendants in connection with the prosecution of Plaintiffs’ claims against FMC, with which Plaintiffs had not yet entered into a settlement agreement as of January 28, 2009. In the opinion of Class Counsel, the proposed settlement with the Arkema Defendants has materially benefited potential class members.

(ii) **Proposed Settlement with FMC**

After entering into the settlement with the Arkema Defendants, Plaintiffs entered into a proposed settlement with FMC. Under that proposed settlement, FMC has agreed to pay \$10 million for the benefit of the FMC Settlement Class, subject to the reduction as set forth below.

A portion of the FMC settlement amount is subject to reduction in the event that individuals or entities exclude themselves from the FMC Settlement Class (“opt-out”) and separately pursue their claims. The Escrow Agent shall transfer from the Settlement Escrow Account into the Opt Out Escrow Account an amount computed by multiplying the Settlement Amount (\$10M), less any attorneys’ fees, costs and expenses awarded by the Court, times the percentage derived by dividing the Opt Out Purchases by the Total Class Purchases, plus any net income attributable to the amount so calculated. Those funds, plus any further net income attributable to them, will be disbursed to FMC on a *pro rata* basis as opt outs settle or litigate to judgment with FMC.

The amounts paid in settlement by FMC, after deduction for opt-out payments as described above and payment of any court-ordered attorneys’ fees, reimbursement of litigation expenses as approved by the Court, and expenses of providing notice to the Settlement Class and of administering and distributing the settlement fund (including tax-related expenses), will be distributed among the members of the FMC Settlement Class who submit valid and timely proof of claim forms, on a *pro rata* basis, in accordance with the formula set forth below under the heading “Distribution of FMC Settlement Proceeds.”

The above is only a summary of the basic terms of the proposed Arkema and FMC settlements. You are referred to the Arkema and FMC Settlement Agreements, which are on file with the Clerk of the Court, and available for review at www.hydrogenperoxideantitrustlitigation.com, for the precise terms and conditions of the Arkema and FMC settlements. You should rely on the precise terms and conditions of the settlement agreements, and not merely this summary of the basic terms, in evaluating these settlements and your rights and options with respect thereto.

The complete terms of the proposed settlement agreements are on file and may be examined or copied during regular business hours at the office of the Clerk of the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Philadelphia, Pennsylvania 19106. Copies of the settlement agreements are also available from Plaintiffs’ counsel identified in this Notice. Copies of the Settlement Agreements are also available at www.hydrogenperoxideantitrustlitigation.com.

PLEASE DO NOT TELEPHONE THE COURT REGARDING ANY INQUIRIES CONCERNING THE PROPOSED SETTLEMENT.

II. CONSEQUENCES OF SETTLEMENT CLASS MEMBERSHIP—OPTION TO REQUEST EXCLUSION FROM THE SETTLEMENT CLASSES

If you come within the definition of the Arkema and FMC Settlement Classes, you are a member of those Settlement Classes and have the following options:

1. **You May Do Nothing and Remain a Member of the Arkema and FMC Settlement Classes.** If you are a member of the Arkema and FMC Settlement Classes and wish to remain a member, you do not have to do anything. If you choose to take no action, your interests as a member of the Arkema and FMC Settlement Classes will be represented by the Plaintiffs and Class Counsel. You will be bound by the terms of the Settlement Agreements and any final judgment that may be entered.

As a member of the Arkema and FMC Settlement Classes, you will not be responsible for attorneys' fees or litigation expenses.

In addition, if the Court grants final approval of the Settlement Agreements, you will be bound by the terms of those agreements and by any judgment entered in accordance with those agreements.

There is no need to do anything now other than complete and return a Proof of Claim on or before August 10, 2009, unless you wish to exclude yourself from the Arkema and FMC Settlement Classes or to object to the settlements described herein, the distribution of the FMC Settlement Fund, or the application of Class Counsel for attorneys' fees and expenses described in this Notice. Along with this Notice, you have been sent a Proof of Claim that you will need to complete if you wish to share in the proceeds of the proposed FMC settlement. If you submit a valid and timely proof of claim, your share of the distribution will be based on the formula set forth below under the heading "Distribution of FMC Settlement Proceeds."

PLEASE NOTE THAT IF YOU HAVE PREVIOUSLY SUBMITTED A TIMELY AND VALID PROOF OF CLAIM WITH RESPECT TO SETTLEMENTS THAT HAVE BEEN APPROVED BY THE COURT WITH OTHER DEFENDANTS IN THIS LITIGATION, YOU DO NOT NEED TO SUBMIT THIS PROOF OF CLAIM IN ORDER TO PARTICIPATE IN THE DISTRIBUTION OF THE FMC SETTLEMENT FUND.

2. **You May Remain A Member of the Arkema and FMC Settlement Classes and Hire Your Own Attorney to Represent You At Your Own Expense.** If you are a member of the Arkema and FMC Settlement Classes and do not wish to be represented by the Plaintiffs and Class Counsel, you may enter an appearance through your own attorney. To do so, your attorney must file a Notice of Appearance with the Clerk of the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Philadelphia, Pennsylvania 19106, and send a copy of the Notice of Appearance to counsel for the Plaintiffs, FMC, and the Arkema Defendants who are identified at the end of this Notice. You will then continue, as a member of the Settlement Classes with representation by your own attorney, and you will be responsible for the fees and costs of that attorney.

3. **You May Request Exclusion from the Arkema and FMC Settlement Classes:** If you elect to exclude yourself from the Arkema and FMC Settlement Classes, you must mail a written request indentifying the Settlement Class from which you wish to be excluded to the Clerk of the Court c/o Claims Administrator at the following address: Hydrogen Peroxide Antitrust Litigation, P.O. Box 58309, Philadelphia, PA 19102-8309. The written request for exclusion must include the full name of the purchaser, including any predecessor or successor entities, and your address, and specifically state that you request exclusion from the Arkema or FMC Settlement Class. The written request for exclusion must be sent by certified mail, return receipt requested, must be postmarked so that it is received on or before June 19, 2009. If you elect to be excluded from a Settlement Class and the proposed settlement with respect to that Settlement Class is finally approved, you will not be entitled to share in the proceeds of that settlement and will remain free to pursue any legal rights you may have against that defendant.

4. **You May Object.** If you are a member of the Arkema and FMC Settlement Classes and do not elect exclusion from a given Settlement Class, you may object to the terms of the Settlement Agreement with that defendant prior to final approval, the plan of distribution of the approved settlement funds or the application for attorneys' fees and expenses described in this Notice. To do so, you must mail a written objection, including a statement of the nature and grounds for your objection, to the Clerk of the Court at the following address: 601 Market Street, Philadelphia, Pennsylvania 19106, and copies of any objections must also be mailed to Class Counsel and counsel for the Arkema Defendants and FMC listed at the end of this Notice. The written objection must include the caption of this litigation, be signed, be sent by certified mail, return receipt requested, and be received no later than June 30, 2009.

III. EFFECT OF THE SETTLEMENTS

The Arkema and FMC Settlement Agreements are intended to settle and contain a release of all claims with respect to those defendants that members of the Arkema and FMC Settlement Classes as direct purchasers have asserted or could have asserted in the lawsuit arising out of any act or omission that is the subject matter of the lawsuit. The Releases contained in the Arkema and FMC Settlement Agreements are set forth in the Settlement Agreements, which are on file with the Clerk of the Court and which are also available from Class Counsel identified in this Notice, and at www.hydrogenperoxideantitrustlitigation.com. If you do not exclude yourself from a Settlement Class, you (and your respective past and present parents, subsidiaries, successors, affiliates, and agents) will be deemed to have entered into the corresponding Release if the settlement is approved by the Court and becomes effective. If you remain in a Settlement Class, you may not, after the Effective Date, seek to institute, maintain, prosecute or continue to maintain or prosecute any suit, action or other proceeding, or collect from or proceed against the Releasees based on the Released Claims.

If the settlements are approved by the Court and the approval becomes final, the settlements will be consummated on the terms set forth in the Settlement Agreements as described herein, and the litigation will be completed in its entirety. If the proposed settlements are not approved by the Court or do not become final for some other reason, the litigation shall continue against FMC and/or Arkema (as the case may be).

IV. DISTRIBUTION OF THE FMC SETTLEMENT FUND

If the FMC settlement receives final approval, the FMC Settlement Fund will be distributed to members of the FMC Settlement Class who are eligible to receive a share of the FMC Settlement Fund as described in this Notice. If you exclude yourself from the FMC Settlement Class, you will not be able to share in the approved Settlement Funds from the FMC settlement. **PLEASE NOTE THAT, IN ORDER TO BE ELIGIBLE TO RECEIVE A SHARE OF THE SETTLEMENT PROCEEDS, ELIGIBLE CLASS MEMBERS MUST COMPLETE AND SUBMIT A PROOF OF CLAIM FORM BY AUGUST 10, 2009, AS SPECIFIED IN THE ACCOMPANYING PROOF OF CLAIM FORM. HOWEVER, IF YOU HAVE PREVIOUSLY SUBMITTED A TIMELY AND VALID PROOF OF CLAIM WITH RESPECT TO THIS LITIGATION, YOU DO NOT NEED TO SUBMIT A PROOF OF CLAIM TO PARTICIPATE IN THE DISTRIBUTION OF THE FMC CORPORATION SETTLEMENT FUND.**

A. The portion of the FMC Settlement Fund that will be distributed to eligible members of the FMC Class who submit a valid and timely Proof of Claim form is that portion (the "Net FMC Settlement Funds") that remains after deduction of: the reduction of the FMC Settlement Fund on account of opt-outs (as described above); notice and administration costs, including the fees and costs of the Claims Administrator that may hereafter be approved by the Court; any expenses that the Court may award; and, any attorneys' fees and expenses that may hereafter be awarded to Class Counsel. The amount of attorneys' fees and expenses that Class Counsel will request the Court to award is described in Section V below.

B. The Net FMC Settlement Funds will be distributed, on a *pro rata* basis, to each eligible member of the FMC Settlement Class who submits or has submitted a valid and timely Proof of Claim based on its total "Recognized Claim".

(i) The "Recognized Claim" for purchases of hydrogen peroxide during the period September 14, 1994 through December 31, 2001 shall be equal to the dollar amount of the Settlement Class Member's purchases of hydrogen peroxide in the United States directly from defendants during that period. The "Recognized Claim" for purchases of hydrogen peroxide during the period from January 1, 2002, through January 5, 2005, shall be 10% of the dollar amount of the Settlement Class Member's purchases of hydrogen peroxide in the United States directly from defendants during that period. For example, if a Settlement Class Member purchased \$20 of hydrogen peroxide in the United States directly from defendants during the period September 14, 1994, through December 31, 2001, and \$10 of hydrogen peroxide in the United States directly from defendants during the period January 1, 2002, through January 5, 2005, its "Recognized Claim" shall be \$21.

(ii) Purchases of sodium perborate or sodium percarbonate shall not be included in a Recognized Claim.

(iii) Only direct purchases of hydrogen peroxide from any of the defendants may be claimed. Purchases from any other manufacturer, distributor and/or retailer may not be claimed.

C. The distribution set forth in paragraphs IV.B. is based on an evaluation and analysis of the evidence by Class Counsel.

D. The Net FMC Settlement Fund will be distributed to FMC Settlement Class members on a *pro rata* basis among all FMC Settlement Class members who submit valid and timely claim forms. In other words, each FMC Settlement Class member shall be paid the percentage of the Net FMC Settlement Fund that each FMC Settlement Class

member's Recognized Claim bears to the total of the Recognized Claims of all FMC Settlement Class members who have submitted valid and timely proof of claim forms.

V. APPLICATION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES

Class Counsel intend to file an application for an award of attorneys' fees ("Fee Petition") for up to 30% of the FMC Settlement Fund, prior to any applicable reduction. The Fee Petition will also include a request by Class Counsel to be reimbursed for disbursements for litigation expenses, not to exceed \$50,000.

The Fee Petition will be filed with the Court on or before July 7, 2009, and will be available for inspection in the office of the Clerk of the United States District Court for the Eastern District of Pennsylvania. The Fee Petition will include a thorough description of the work performed by Class Counsel on behalf of the Settlements Classes.

VI. HEARING

The Court will hold a hearing at the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Courtroom 10B, Philadelphia, Pennsylvania 19106, on July 14, 2009, at 10:00 a.m., with respect to the motion of Class Counsel for final approval of the settlements with FMC and the Arkema Defendants, the distribution of the FMC Settlement Fund, and the request by Class Counsel for an award of attorneys' fees and expenses to be paid from the FMC Settlement Fund as described above. The Hearing may be continued without further notice. It is not necessary for you to appear at the Hearing unless you wish to be heard.

You may ask the Court for permission to speak at the Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *In re Hydrogen Peroxide Antitrust Litigation*." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be received no later than June 30, 2009, and be sent to the Clerk of the Court, Class Counsel and counsel for the Arkema Defendants and FMC at the addresses listed below.

VII. NOTICE TO ATTORNEYS OF RECORD

Copies of all documents filed with the Clerk of the Court should be sent to each of the following counsel:

Class Counsel	Counsel for FMC Corporation	Counsel for Arkema Defendants
<p>Michael D. Hausfeld HAUSFELD LLP 1700 K Street, N.W., Suite 650 Washington, DC 20006 202-540-7200</p> <p>Anthony J. Bolognese BOLOGNESE & ASSOCIATES, LLC Two Penn Center 1500 JFK Boulevard Suite 320 Philadelphia, PA 19102 Telephone: 215-814-6750</p> <p>Steven A. Kanner FREED KANNER LONDON & MILLEN, LLC 2201 Waukegan Road, Suite 130 Bannockburn, IL 60015 Telephone: 224-632-4500</p> <p>Robert N. Kaplan KAPLAN FOX & KILSHEIMER, LLP 850 Third Avenue, 14th Floor New York, NY 10022 Telephone: 212-687-1980</p>	<p>Christine C. Levin DECHERT LLP 2929 Arch Street Philadelphia, PA 19104 Telephone: 215-994-4000</p>	<p>Howard D. Scher Steven E. Bizar BUCHANAN INGERSOLL & ROONEY Two Liberty Place, 50 South 16th Street Suite 3200 Philadelphia, PA 19102 Telephone: 215-665-8700</p>

VIII. CHANGE OF ADDRESS

If this Notice reached you at an address other than the one on the mailing label, or if your address changes, please send your correct address to the Claims Administrator at:

Hydrogen Peroxide Antitrust Litigation
P.O. Box 58309
Philadelphia, PA 19102-8309

Website: www.HydrogenPeroxideAntitrustLitigation.com

Dated: May 5, 2009

PLEASE DO NOT TELEPHONE THE COURT REGARDING ANY INQUIRIES CONCERNING THIS NOTICE.

Clerk of Court
United States District Court
for the Eastern District of Pennsylvania