

PUBLIC NOTICE

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

CONTAMINATED SITE REMEDIATION AND REDEVELOPMENT

OFFICE OF NATURAL RESOURCE RESTORATION

**Notice to Receive Interested Party Comments on Proposed Judicial Consent Order In The
Matter of NJDEP v. Solvay Specialty Polymers USA, LLC, and Arkema, Inc., Dkt. No.
Glo-L-001239-20**

TAKE NOTICE that the New Jersey Department of Environmental Protection, its Commissioner, and the Administrator of the New Jersey Spill Compensation Fund (collectively NJDEP or Department) seek comments on a proposed Judicial Consent Order that would resolve certain claims asserted against Arkema, Inc. (Arkema) in pending litigation for past and future cleanup and removal costs, unmet remediation obligations, and injuries to natural resources resulting from discharges at, from, and/or related to the site described below, referred to as the “West Deptford Property”:

The West Deptford Property, consisting of approximately 243 acres (with the southernmost 34 acres zoned for industrial use), currently owned by Solvay Specialty Polymers USA, LLC (Solvay) and formerly owned by Arkema, is located at 10 Leonard Lane in the Township of West Deptford, Gloucester County. The overall Solvay/Arkema Site includes, collectively, the West Deptford Property, as well as all areas to which any hazardous substances and pollutants, including per- and polyfluoroalkyl substances (PFAS), discharged at or from the West Deptford Property have migrated. The Solvay/Arkema Site has been designated as Site Remediation Site ID No. 00014545, Site Remediation Program Interest No. 015010, and RFS Program Interest No. 572019.

In November 2020, consistent with its authorities as the trustee of New Jersey's natural resources and under the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -23.24 (Spill Act); the Safe Drinking Water Act, N.J.S.A. 58:12A-1 to -39 (SDWA); the Water Pollution Control Act, N.J.S.A. 58:10A-1 to -20 (WPCA); the Air Pollution Control Act, N.J.S.A. 26:2C-1 to -57 (APCA); the Solid Waste Management Act, N.J.S.A. 13:1E-1 to -230 (SWMA); the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29 (SRRA); the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 to -31 (Brownfield Act); and the common law of New Jersey, NJDEP filed a legal action against Solvay and Arkema. The lawsuit alleged that Solvay and Arkema were liable to the public for injuries to the natural resources of the State due to discharges of hazardous substances and pollutants at and emanating from the West Deptford Property and for costs incurred by NJDEP, and that Solvay and Arkema had failed to perform required remediation.

In March 2024, the Court approved a Judicial Consent Order between NJDEP and Solvay. That settlement requires Solvay to, among other things, (1) perform remediation activities currently valued at \$214 million; (2) establish Remediation Funding Sources in that amount to ensure there are sufficient funds for the remediation; (3) pay \$101.05 million for remedial projects; (4) pay \$75 million for natural resource damages; and (5) pay approximately \$3.8 million for NJDEP's past costs.

NJDEP has now reached an agreement with Arkema to resolve its alleged liability to the public for remediation costs, unmet remediation obligations, and injuries to the natural resources of the State (excluding claims relating to injuries to and contamination of resources located in the Delaware River itself, which are reserved) resulting from discharges of hazardous substances and pollutants at, from, and/or related to the West Deptford Property by (1) paying \$21,250,000 to

NJDEP for various remedial projects, including supplemental funds to treat drinking water impacted by PFAS associated with discharges from the Site; (2) paying \$12,700,000 to NJDEP for natural resource damages; and (3) establishing and maintaining, for at least 18 years, a reserve fund in the initial amount of \$75 million in the form of a letter of credit and/or a self-guarantee to provide additional financial assurance that the remediation activities associated with the West Deptford Property will be completed. The amount of the reserve fund will be adjusted over time based on updated estimates of the cost of completing the remediation activities.

NJDEP hereby proposes to enter a Judicial Consent Order with Arkema to effectuate this settlement. NJDEP, exercising its responsibilities under statutes governing the remediation of contaminated sites, including the Spill Act, the Brownfield Act, SRRA, and the regulations promulgated thereunder, including N.J.A.C. 7:26C and N.J.A.C. 7:26E, and as trustee of the State's natural resources, believes that the proposed settlement terms are fair, reasonable, faithful to the intent of the applicable statutes, and in the public interest. All natural resource damages recovered, less the costs of suit, legal, and administrative fees, will be held in NJDEP's dedicated natural resource damages account for specific natural resource restoration activities in accordance with the New Jersey State Constitution, Article VIII, Section 2, Paragraph 9. NJDEP intends to conduct public outreach and engagement in the consideration and selection of restoration activities to be pursued with funds recovered by this settlement.

It is the intent of NJDEP and Arkema that this Judicial Consent Order will constitute a judicially approved settlement within the meaning of the relevant portions of the Spill Act (N.J.S.A. 58:10-23.11f.a(2)(b)) and of the Federal Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9613(f)(2)) for purposes of providing protection from contribution actions or contribution claims related to the matters addressed in the Judicial

Consent Order, all to the full extent provided for in N.J.S.A. 58:10-23.11f.a(2)(b) and 42 U.S.C. § 9613(f)(2).

A copy of the proposed Judicial Consent Order is available for inspection virtually at (<https://dep.nj.gov/arkema/>) and physically via the NJDEP Office of Record Access at 401 East State Street, Trenton, New Jersey. Requests to inspect a physical copy of the proposed Judicial Consent Order should be directed to records.custodian@dep.nj.gov. Interested persons may submit comments on the proposed Judicial Consent Order on the Department's website (<https://dep.nj.gov/arkema/>) or sent via email to arkemasettlement@dep.nj.gov. All comments must be submitted within 60 calendar days of the date of this public notice.

NJDEP will consider all comments received and may decide to propose modifications to, or to withdraw or withhold consent to the entry of, the Judicial Consent Order if comments received disclose facts or considerations that demonstrate that the Judicial Consent Order is inappropriate, improper, or inadequate.

Dated: May 7, 2024



Shawn M. LaTourette
Commissioner of Environmental Protection