PHARMION CORP
Form SC TO-I/A
May 15, 2006

As filed with the Securities and Exchange Commission on May 15, 2006

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE TO
(Amendment No. 2)
Tender Offer Statement under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934

PHARMION CORPORATION
(Name of Subject Company Issuer and Filing Person Offeror)

OPTIONS TO PURCHASE COMMON STOCK,
par value $0.001 per share
(Title of Class of Securities)

71715B 40 9
(CUSIP Number of Class of Securities)

Steven N. Dupont
Vice President and General Counsel
Pharmion Corporation
2525 28th Street
Boulder, Colorado 80301
(720) 564-9100
(Name, address and telephone number of person authorized to receive
notices and communications on behalf of Filing Person)

Copies to:
James C. T. Linfield, Esq.
Daniel P. Meehan, Esq.
Cooley Godward LLP
380 Interlocken Crescent, Suite 900
Broomfield, CO 80021-8023
720-566-4000

CALCULATION OF FILING FEE

Transaction Valuation*	**Amount of Filing Fee****
$2,077,695	$222.32

* Calculated solely for purposes of determining the filing fee. This amount assumes that options to purchase 704,237 shares of Common Stock of Pharmion Corporation par value $0.001 per share (Common Stock), having an aggregate value of $2,077,695 will be exchanged pursuant to this offer. The aggregate value is calculated based upon the Black-Scholes option pricing model as of April 12, 2006.

** $107.00 per $1,000,000 of the aggregate offering amount (or 0.000107 of the aggregate transaction valuation), pursuant to Rule 0-11 of the Securities Exchange Act of 1934, as amended by Fee Advisory #5 for Fiscal Year 2006, effective November 27, 2005. The filing fee was previously paid with the Schedule TO filed with the Securities and Exchange Commission on April 19, 2006.

o Check box if any part of the fee is offset as provided by Rule 0- 11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

Amount Previously Paid: Not applicable
Form or Registration No.: Not applicable
Filing Party: Not applicable.
Date Filed: Not applicable.

o Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- o Third-party tender offer subject to Rule 14d-1.
- þ Issuer tender offer subject to Rule 13e-4.
- o Going-private transaction subject to Rule 13e-3.
- o Amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer: o

SCHEDULE TO
(AMENDMENT NO. 2)

This Amendment No. 2 amends and supplements the Tender Offer Statement on Schedule TO filed by Pharmion Corporation, a Delaware corporation (the Company), with the Securities and Exchange Commission on April 19, 2006 and amended on April 21, 2006, relating to the offer by the Company to exchange all stock options to purchase shares of the Company s common stock, par value $0.001 per share, that were granted before April 1, 2005 and that have exercise prices equal to or greater than $21.00 per share, currently outstanding under the Company s 2000 Stock Incentive Plan (the Plan), held by eligible optionholders for new options to purchase shares of the Company s common stock to be granted under the Plan, upon the terms and subject to the conditions set forth in the Offer dated April 19, 2006, and related attachments thereto.

ITEM 6. ***PURPOSES OF THE TRANSACTION AND PLANS OR PROPOSALS.***

(a) *Purposes.* The information set forth in the Offer under Summary of Terms and Section 2 (Purpose of this Offer) is incorporated herein by reference.

(b) *Use of Securities Acquired.* The information set forth in the Offer under Section 10 (Status of Options Acquired by Us in this Offer; Accounting Consequences of this Offer) is incorporated herein by reference.

(c) *Plans.* The Company from time to time evaluates strategic acquisitions and will continue to do so in the future. The Company may issue its stock or pay cash in connection with such acquisitions. The Company may obtain cash for such acquisitions through a variety of means, including, without limitation, through the issuance of additional stock. The information set forth in the Offer under Section 9 (Interest of Directors and Executive Officers; Transactions and Arrangements Involving Stock Options) is incorporated herein by reference.

In addition, the Company has recommended that our shareholders approve an employee stock purchase program at the Company s upcoming annual meeting. Subject to the foregoing, and except as otherwise disclosed in this Offer or in our filings with the Securities and Exchange Commission, we presently have no plans or proposals that relate to or would result in:

(a) any extraordinary transaction, such as a merger, reorganization or liquidation, involving us or any of our subsidiaries;

(b) any purchase, sale or transfer of a material amount of our assets or the assets of any of our subsidiaries;

(c) any material change in our present dividend rate or policy, indebtedness or capitalization;

(d) any change in our present Board of Directors or management including, but not limited to, any plans or proposals to change the number or term of our directors or to fill any existing vacancies on the Board or to change any material term of the employment contract of any of our executive officers;

(e) any other material change in our corporate structure or business;

(f) the delisting of our common stock from the Nasdaq National Market;

(g) our common stock becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Securities Exchange Act of 1934, as amended (which we refer to herein as the Exchange Act);

(h) the suspension of our obligation to file reports pursuant to Section 15(d) of the Exchange Act;

(i) the acquisition by any person of our securities or the disposition of any of our securities, other than our employees, directors, executive officers and consultants who may: (i) acquire or dispose of rights to our securities pursuant to existing or future restricted stock or stock option exercises or grants; (ii) make purchases of our

securities through our employee stock purchase plan; or (iii) make purchases

or sales pursuant to existing or future trading plans that have been structured to comply with Rule 10b5-1 under the Exchange Act; or

(j) any change in our Restated Certificate of Incorporation or Bylaws, or any actions that may impede the acquisition of control of us by any person.

ITEM 12. ***EXHIBITS.***

Exhibit Number	**Description**
99.(a)(1)(A)*	Offer to Exchange Outstanding Options to Purchase Common Stock, dated April 19, 2006.
99.(a)(1)(B)*	Form of Stock Option Exchange Election Form.
99.(a)(1)(C)*	Form of Transmittal Memorandum.
99.(a)(1)(D)**	Text of an email message to Pharmion employees from Pam Herriott, Vice President, Human Resources of Pharmion, dated February 14, 2006.
99.(a)(1)(E)***	Text of an email message to employees of Pharmion with the title of Vice President or Director from Pam Herriott, Vice President, Human Resources of Pharmion, dated February 28, 2006.
99.(a)(1)(F)	Current Report on Form 8-K filed with the Securities and Exchange Commission on February 15, 2006, and incorporated herein by reference.
99.(a)(1)(G)*	Text of an email message to employees of Pharmion with the title of Manager, Vice President or Director from Steve Dupont, General Counsel, dated April 19, 2006.
99.(a)(1)(H)*	Text of an email message to Pharmion Employees Eligible to Participate in the Option Exchange Program with a copy to Employee Managers, Vice Presidents and Directors from Pam Herriott, Vice President, Human Resources of Pharmion, dated April 19, 2006.
99.(a)(1)(I)	Pharmion Corporation s Annual Report on Form 10-K for its fiscal year ended December 31, 2005, filed with the Securities and Exchange Commission on March 16, 2006, and incorporated herein by reference.
99.(a)(1)(J)****	PowerPoint presentation to employees entitled Pharmion Corporation Offer to Exchange Outstanding Out-of-the-Money Stock Options - Highlights for Eligible Employees.
99.(a)(1)(K)****	Text of an email message to Pharmion Country Managing Employees and eligible U.S. employees in remote locations regarding employee information sessions.
99.(a)(1)(L)	Supplemental Disclosure to Pharmion Employees Eligible to Participate in the Option Exchange Program.
99.(a)(1)(M)	Text of an email message to Pharmion Employees Eligible to Participate in the Option Exchange Program from Pam Herriott, Vice President, Human Resources of Pharmion, dated May 15, 2006.
99.(b)	Not applicable.
99.(d)(1)	Pharmion Corporation Amended and Restated 2000 Stock Incentive Plan, incorporated herein by reference to the indicated exhibit in Pharmion Corporation s Annual Report on Form 10-K for its fiscal year ended December 31, 2005, filed with the Securities and Exchange Commission on March 16, 2006, as Exhibit 10.35.
99.(d)(2)*	Form of Non-Qualified Stock Option Agreement

99.(d)(3)*	Form of Non-Qualified Stock Option Agreement (Italy)
99.(d)(4)*	Form of Disclaimer to Equity Award Agreements under the 2000 Stock Incentive Plan, as amended and restated
99.(g)	Not applicable.
99.(h)	Not applicable.

* Previously filed with the Schedule TO-I filed with the Securities and Exchange Commission on April 19, 2006, and incorporated herein by reference.

** Previously filed with the Preliminary Communications on Schedule TO-C filed with the Securities and Exchange Commission on February 15, 2006, and incorporated herein by reference.

*** Previously filed with the Preliminary Communications on Schedule TO-C filed with the Securities and Exchange Commission on February 28, 2006, and incorporated herein by reference.

**** Previously filed with the Schedule TO-I/A filed with the Securities and Exchange Commission on April 21, 2006, and incorporated herein by reference.

Schedule TO
(Amendment No. 2)
SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Pharmion Corporation
By: /s/ Erle T. Mast

Erle T. Mast
Its: Chief Financial Officer

Dated: May 15, 2006

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