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ATOFINA Chemicals, Inc.

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C2-011

July 12, 2002

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Ms. Barbara Cunningham
Acting Director, Environmental Assistance Branch
Office of Pollution Prevention and Toxics
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

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Subject: Proposed Significant New Use Rule on Perfluoroalkyl Sulfonates; 67 *Federal Register* 11014 [Docket #OPPTS-50639C]

Dear Ms. Cunningham:

ATOFINA Chemicals, Inc. (ATOFINA Chemicals) is pleased to provide comment to the United States Environmental Protection Agency (EPA) in response to the March 11, 2002 notice soliciting comments on a proposed significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 75 substances collectively referred to as perfluoroalkyl sulfonates (PFAS).

ATOFINA Chemicals produces high-performance chemicals and polymers. Headquartered in Philadelphia, ATOFINA Chemicals employs 3,000 people, and reported sales in 2001 of \$1.4 billion. ATOFINA Chemicals is part of ATOFINA, the world's 5th largest chemical company with 72,000 employees and sales in 2001 of \$17.5 billion (EUR19.6 billion). ATOFINA is the chemical branch of TotalFinaElf (NYSE: TOT), the world's 4th largest oil and gas company with 123,000 employees and sales in 2001 of \$94 billion (EUR105 billion).

ATOFINA Chemicals is a member company of the American Chemistry Council (ACC) and supports the comments that ACC is submitting on the proposed SNUR on perfluoroalkyl sulfonates. ATOFINA Chemicals would also like to share with EPA its company-specific comments on the proposed SNUR.

ATOFINA Chemicals' primary concern regarding the proposed SNUR is the Agency's apparent interpretation of TSCA section 5(a)(2) as providing authority to regulate ongoing uses of chemical substances, possibly by defining "new use" in terms of a production volume cap on an existing use.

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Barbara Cunningham
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ATOFINA Chemicals does not believe EPA has authority under section 5(a)(2) to restrict existing uses of chemical substances on the TSCA Inventory. Instead, the company believes a SNUR may be promulgated only for a use that would be both new and significant.

Specifically, the text in the proposed SNUR that leads ATOFINA Chemicals to believe EPA may consider that TSCA section 5(a)(2) provides the Agency authority to regulate ongoing used of chemicals substances is found at *67 Federal Register* 11021, which states:

“EPA is proposing to exclude these photographic uses from the definition of significant new use in the SNUR, based on its understanding that the industry is actively working to move away from these PFAS chemicals and to reduce the use and release of PFAS....In the absence ofinformation to confirm the Agency’s understanding..., EPA may include these photographic uses in the definition of significant new uses that would be subject to this SNUR at such time as a final rule is promulgated, perhaps defining the new use based on a volume cap on new manufacture or importation intended for this use.”

In conclusion, we look forward to continued dialog with EPA to address health concerns pertaining to chemical substances and we support efforts by EPA and industry to address concerns pertaining to PFAS compounds on a cooperative basis. Where those efforts lead to the cessation of an existing use of a chemical substance, ATOFINA Chemicals believes it may be within EPA’s authority to promulgate a SNUR covering that discontinued use, so that EPA would be notified before that use may be started anew. However, ATOFINA Chemicals does not believe EPA has authority to promulgate a SNUR for a use that is ongoing and therefore not new. We do not consider an increase in manufacture or importation for an existing use is a “new use” within the meaning of TSCA section 5(a)(2).

Sincerely,



Craig H. Farr, Ph.D.
Associate Director,
Product Stewardship and Toxicology