



August 16, 2006

Hon. Rona Ambrose  
Minister of the Environment  
House of Commons  
Ottawa, ON K1A 0A6

**Re: *Canada Gazette, Part 1, June 17, 2006***

***Order Adding Toxic Substances to Schedule 1 to the Canadian Environmental Protection Act, 1999 – Four New Fluorotelomer-based Substances***

**- And -**

***Regulations Amending the Prohibition of Certain Toxic Substances Regulations, 2005 (Four New Fluorotelomer-based Substances)***

Dear Minister Ambrose,

Thank you for the opportunity to submit our comments on the proposed actions to manage the four new fluorotelomer-based substances.

Based on the findings of the fluorotelomer assessment reports that:

- the four new fluorotelomer based substances would be a source of perfluorinated carboxylic acids (PFCAs), and
- members of this class of chemicals (PFCAs) are known to be persistent and suspected to be bioaccumulative, subject to long-range transport (via a precursor), widespread throughout Arctic biota, associated with adverse effects in animals, and showing a trend of increasing concentrations in Arctic mammals,

**Environmental Defence supports adding these four new fluorotelomer based substances to Schedule 1 to the Canadian Environmental Protection Act, 1999.**

Furthermore, the findings of Environmental Defence's recent report, *Polluted Children, Toxic Nation: A Report on Pollution in Canadian Families*, suggest that PFCAs may be accumulating at higher levels in children than adults. PFOA, which belongs to the group of PFCAs (and which these fluorotelomer-based substances would be a source of) was detected in every child and adult tested, and the children had a higher median concentration of 2.38 ng/mL in serum, compared to 1.71 ng/mL in adults. A study conducted by WWF UK, *Contamination: The Next Generation*, also found several cases where children had higher concentrations of perfluorinated chemicals than their parents and grandparents. The detection of higher levels of these chemicals in children is of particular concern because children may be more vulnerable to the harmful effects of toxic chemicals. To protect current and future generations from rising levels of PFCAs

and their potential adverse health effects, it is essential that these four fluorotelomer-based substances be strictly prohibited.

In addition, based on the findings of the assessment reports that:

- the four new fluorotelomer based substances are ‘toxic’ as defined by section 64 of CEPA, 1999, and would be a source of PFCAs, particularly if placed in commercial use,
- as well as Environmental Defence’s own findings that PFCAs may be accumulating at higher levels in children than adults,

**Environmental Defence opposes the *Regulations Amending the Prohibition of Certain Toxic Substances Regulations, 2005 (Four New Fluorotelomer-based Substances)* as they are currently construed**, because the amendment would exclude manufactured, or consumer, items containing these four substances from the prohibitions. Such an exemption will effectively permit the contamination of the Canadian population and environment with these fluorotelomer-based substances, and any other substances which may be added to this new part of Schedule 1 of the Regulations in the future. The exemption of manufactured items containing prohibited substances from any regulations is a major flaw that must be addressed for several reasons outlined below.

**1) Exempting manufactured items is contrary to the objective of preventing further increases of PFCAs.** Given that, a) these four new fluorotelomer-based substances can be widely used in a number of consumer products, particularly as surface protectors for textiles, paper, and other materials, and b) that the commercial use of these substances is expected to release precursors to PFCAs, allowing manufactured items containing these substances into the Canadian market will contribute to increasing levels of PFCAs in people and in the environment, which is contrary to the overarching objective of preventing further increases of PFCAs.

**2) Adding the four fluorotelomer-based substances to the new part of Schedule 1 of the Regulations is contradictory to the government’s stated intention to address the importation of manufactured items treated with fluorotelomer-based substances.** It is our understanding that the government intends to implement controls that would prevent the importation of manufactured items containing the fluorotelomer-based substances as part of the Action Plan for Perfluorinated Carboxylic Acids and their Precursors. However, the addition of these four fluorotelomer-based substances to the new part of Schedule 1 to the Regulations is contradictory to that commitment. Once the four fluorotelomer-based substances are added to the new part of Schedule 1 to the Regulations the requirement to address the use of these substances in manufactured items will be eliminated.

**3) Controlling manufactured items containing fluorotelomer-based substances is not impractical, but does require a commitment from the government.** The government has stated that controlling the import of manufactured items containing the four new fluorotelomer-based substances is not practical, and that it would be difficult to identify the substances in manufactured items, as there are difficulties associated with sampling and testing, however, nowhere are the difficulties with sampling and testing outlined. Scientific researchers and non-profit organizations have tested for these and similar substances in consumer products as well as conducted industry surveys to determine which companies’ products contain perfluorinated

chemicals.<sup>1</sup> It is unclear why Environment Canada and Health Canada are unable to conduct similar research to identify manufactured items containing prohibited substances. It is also disconcerting that the proposed regulations do not mention how the departments plan to address this research gap.

To address any difficulties in the sampling and analytical methodologies of testing for fluorotelomer-based substances in manufactured items, Environment Canada and Health Canada should work with the scientific community to develop more reliable and practical tests so that a testing program to control the import of manufactured items containing the fluorotelomer-based substances may be developed in the near future. Such a research program would allow the departments to fulfill their commitment to addressing control measures for manufactured items containing the fluorotelomer-based substances as part of the next steps towards the management of PFCAs and their precursors. **Environmental Defence recommends that Environment Canada and Health Canada work with the scientific community to develop practical sampling and testing methodologies for fluorotelomer-based substances in manufactured items, and to commit to a timeline for the control of imported manufactured items containing the prohibited fluorotelomer-based substances.**

**4) The proposed new part to Schedule 1 of the *Prohibitions of Certain Toxic Substances Regulation, 2005* will impact CEPA beyond prohibitions pertaining to the four new fluorotelomer-based substances, particularly if other substances are added to this new part in the future.** Moreover, the exemption of manufactured items containing prohibited substances is contradictory to the purpose of Schedule 1 of the Regulations, which is to subject prohibited toxic substances to total prohibition. Substances on Schedule 1 to the Regulations are traditionally subject to total prohibition because they have been identified as toxic to human health and/or the environment, as well as persistent and bioaccumulative, and thus continued or new exposures to these substances are unacceptable. Total prohibition, including the prohibition of manufactured items containing substances on Schedule 1 of the Regulations, must be maintained for the integrity of CEPA, 1999, as well as for the protection of human health and the environment.

In summary, Environmental Defence:

- supports adding the four new fluorotelomer-based substances to Schedule 1 of CEPA, 1999, and
- recommends that these four new fluorotelomer-based substances be subject to total prohibition that includes manufactured items, and

---

<sup>1</sup> Friends of the Earth Norway. (2006, February). Fluorinated pollutants in all-weather clothing. Begley, T.H. et al. (2005, October). Perfluorochemicals: Potential sources of and migration from food packaging. *Food Additives and Contaminants*. Vol. 22, No. 10, pp. 1023–1031. Joyce, M., Dinglasan-Panlilio, A. and Mabury, S.A. (2006, March). Significant Residual Fluorinated Alcohols Present in Various Fluorinated Materials. *Environmental Science and Technology*. Vol. 40, No. 5, pp. 1447-1453. Ohio Citizen Action. (2006). Is food packaging safe? Ohio Citizen asks companies to disclose use of Teflon chemicals. Retrieved online August 8, 2006 from [http://www.ohiocitizen.org/campaigns/dupont\\_c8/food\\_companies/pfoachart.htm](http://www.ohiocitizen.org/campaigns/dupont_c8/food_companies/pfoachart.htm)

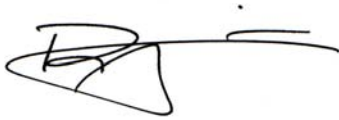
- that the new part to Schedule 1 to the *Prohibition of Certain Toxic Substances Regulations, 2005* not be implemented.

To achieve total prohibition of the four fluorotelomer-based substances (including the prohibition of manufactured items containing these substances), Environmental Defence recommends that Environment Canada and Health Canada:

- work with the scientific community to develop practical sampling and testing methodologies for manufactured items containing the fluorotelomer-based substances, and
- commit to a timeline for the control of imported manufactured items containing the prohibited fluorotelomer-based substances.

Once again, thank you for the opportunity to submit our comments on the proposed actions to manage the four new fluorotelomer-based substances.

Sincerely,



Rick Smith, Ph. D  
Executive Director  
Environmental Defence

CC:  
Director General  
Pollution Prevention  
Environmental Stewardship  
Department of the Environment  
Ottawa, ON K1A 0H3

and

Josée Portugais  
Head  
Controls Development Unit  
Chemicals Sector Division  
Environment Canada  
351 St. Joseph Blvd, 12<sup>th</sup> Floor  
Gatineau, QC K1A 0H3  
[josee.portugais@ec.gc.ca](mailto:josee.portugais@ec.gc.ca)