



CITY OF CHICAGO



CHICAGO DEPARTMENT OF AVIATION

March 15, 2024

The Honorable Thomas R. Carper
Chair
Committee on Environment and Public
Works
United States Senate
Washington, D.C. 20510

The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public
Works
United States Senate
Washington, D.C. 20510

Dear Chairman Carper and Ranking Member Capito:

I am writing today to provide the Chicago Department of Aviation's (CDA) perspective on granting CERCLA liability exemptions for federally mandated users of per- and polyfluoroalkyl substances (PFAS), and ask that you include airports where federally mandated PFAS usage is the result of providing services for the public good. The CDA operates Chicago O'Hare International Airport and Chicago Midway International Airport, which are linchpins of the national air transportation system. In 2023, more than 73 million passengers traveled through O'Hare, and Midway served 22 million travelers, for a combined total of more than a quarter-million air passengers every day.

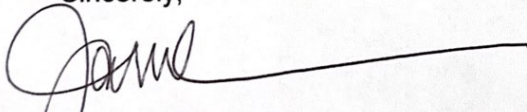
For decades, the FAA has required airports certified to receive commercial passenger service under Part 139, like O'Hare and Midway, to use various formulations of aqueous film-forming foam (AFFF) containing PFAS. Airports are committed to being responsible partners with their communities by following legal requirements to operate their facilities in environmentally responsible ways. Because the federal government mandated airports to use AFFF containing PFAS, airports should not bear liability for using these chemicals in good faith to keep the travelling public safe. As the U. S. Environmental Protection Agency continues its process of designating two PFAS used in AFFF, PFOA and PFOS, as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Part 139 airports should be granted a liability exemption, as proposed in S. 1433, the Airport PFAS Liability Protection Act.

Relatedly, there are other issues that we and other airports are facing with transitioning from AFFF to fluorine free foam (F3). There are provisions in S. 1939, the FAA Reauthorization Act of 2023, that will help airports address some of these challenges outlined below. The CDA supports sections 626 and 627 of S. 1939 that require updates by the FAA every six months to Congress on the transition plan and authorizes \$350 million to assist airports in their transition to F3. To date, the Department of Defense (DOD) has updated the qualified products list (QPL) to include two different F3 products, kicking off the process for the military and airports to transition from AFFF to F3. Below are several outstanding issues that remain for airports:

- **Vehicle and Equipment Cleaning Practices:** Vehicle and equipment cleaning remain significant issues for airport operators that are seeking to use F3 in vehicles or equipment that have carried AFFF. The DOD has led research efforts in this topic. The airport industry is very interested in utilizing the findings and recommendations from these efforts to ensure that the practices airports can use are supported by this science-based research. Since U.S. airports are already moving forward with plans to transition from AFFF to F3, it is very important for these findings and recommendations to reach the airport community with all due speed.
- **Fire Training and Tactics:** The two F3 products currently on the DOD QPL perform differently than AFFF and will necessitate use of different firefighting tactics, post-application monitoring, and foam reapplication. Accordingly, training in the effective use of F3 will be critical for aircraft rescue and firefighting (ARFF) staff. It will also be key that FAA update regional training centers so that ARFF personnel can be professionally trained.
- **Environmental Remediation at Impacted Sites:** Even after the transition to F3, there is still the large issue of remediation at sites impacted by PFAS. The federal government should begin to develop a national, coordinated approach to remediation and disposal needs at airports. Relevant federal agencies should ensure that best practices regarding soil testing, disposal, and remediation are shared and utilized by all stakeholders involved in firefighting. Since airports have been required by the federal government to use AFFF containing PFAS, the federal government should be responsible for remediation at airports.

I appreciate your consideration of this matter. If the CDA can be of any assistance or provide additional information, please let me know.

Sincerely,



Jamie L. Rhee
Commissioner