

March 14, 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

Re: PFAS and Airport Liability Protection

Dear Chairman Carper and Ranking Member Capito:

This letter is to draw your attention to the pressing potentially overwhelming financial and operational challenges facing the Tucson Airport Authority (TAA) in its operation of the Tucson International Airport (TUS) as they relate to the PFAS challenge. TAA is a non-profit corporation under Arizona law formed in 1948, and is independent from any municipality, with no taxing authority. Its operating revenue comes from the funds it raises from airlines, passengers, and tenants at TUS.

TAA, along with every commercial airport in the United States, is heavily regulated by the FAA, including the fact that the FAA has required airports certified to receive commercial passenger service under Part 139 to use aqueous film-forming foam (AFFF) containing PFAS. This is, of course, in the interest of the safety of passengers and crew on commercial aircraft flying to and from commercial service airports like TUS. Pre-2002 AFFF contained a significant percentage of the compound known as PFOS. By definition, newer AFFF foam formulations still contain short-chain PFAS, which may be in the form of precursors that are known to transform in the environment to generate long chain perfluoroalkyl acids such as "PFOA," as terminal end products.

TAA has been on the leading edge of responding to PFAS issues. As soon the FAA allowed it in 2021, <https://www.faa.gov/sites/faa.gov/files/part-139-cert-alert-21-05-Extinguishing-Agent-Requirements.pdf>, TAA stopped spraying AFFF on the ground as part of the Part 139 annual certification process. TAA installed equipment on its AFFF containing fire trucks to allow for the certification testing on the proper mix of water and AFFF without spraying the foam on our airfield. In addition, TAA has engaged proactively with the Environmental Protection Agency (EPA) and Arizona Department of Environmental Quality (ADEQ) and the City of Tucson, to be a community partner on addressing the PFAS challenge by surveying our property for AFFF

discharges and committing to further testing for PFAS on airport property and well sites adjacent to TUS.

TAA is the home of two Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) “Super Fund” sites already. One is a water treatment facility paid for by TAA and operated by the City of Tucson (to treat trichloroethylene (TCE) only), that may be part of the water treatment solution to the PFAS issue found in the aquifer beneath TUS. Both the EPA and ADEQ are already looking to TAA to bear a potentially enormous financial burden of looming costs to address PFAS in the Tucson aquifer utilizing the Tucson Airport Area Remediation Project (TARP) water treatment plant. The unknowns are vast and threaten to overwhelm TAA’s finances (and airlines operating at TAA) for years if not decades to come.

As you know, PFAS is ubiquitous in the environment, with sources well beyond AFFF. [https://www.enviro.wiki/index.php?title=PFAS Sources](https://www.enviro.wiki/index.php?title=PFAS_Sources) Because the federal government mandated airports use AFFF containing PFAS, airports should not bear liability for using these chemicals in good faith to keep the travelling public safe. As the EPA continues its process of designating PFOA and PFOS as hazardous substances under 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 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 tackle some of these challenges outlined below, but they don’t go far enough. TAA 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 firefighting agents, kicking off the process for the military and airports to transition from AFFF to F3. Below are several outstanding issues that remain for TUS:

- **Vehicle and Equipment Cleaning Practices:** Vehicle and equipment cleaning remain significant issues for TUS that is seeking to immediately use F3 in vehicles or equipment that have carried AFFF. The DOD has led research efforts in this topic. TUS is very interested in utilizing the findings and recommendations from these efforts to ensure 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.
- **ARFF Vehicle Proportioning System Modifications:** Existing aircraft rescue and fire-fighting (ARFF) vehicles equipped with fixed orifice plate proportioning systems will require time-consuming and labor-intensive modifications in order to discharge F3 at appropriate concentrations. Retrofitting these vehicles with electronic foam

proportioning (EFP) systems instead offers a more promising and versatile approach for vehicles being modified for F3 use. To speed F3 transition and facilitate future transitions to improved F3 products, these retrofits should be made eligible for AIP grant funding or similar federal financial assistance.

- **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 ARFF staff. It will also be key that FAA update regional training centers so that ARFF personnel can be professionally trained.
- **Environmental Remediation at Contaminated Sites:** Even after the transition to F3, there is still the large issue of remediation at contaminated sites. As I noted above, this is an immediate concern for TAA. The federal government should begin to develop a national, coordinated approach to remediation and disposal needs at airports. A piecemeal approach to this challenge is not the correct policy approach to this national problem. Relevant federal agencies should ensure that best practices regarding soil testing, disposal, and remediation are shared and utilized by all stakeholders involved in firefighting. It's a federal problem that demands a federal solution.

TAA has specific, current PFAS issues at TUS. We hope that this tangible tale of these existing issues helps in your consideration of legislative solutions to this significant challenge to the nation. TAA, and other operators of Part 139 airports in the United States, should receive liability protection from PFAS related costs for all the reasons detailed above.

Thank you for your consideration of this request.

Respectfully,



Danette Bewley, A.A.E.
President/CEO
Tucson Airport Authority