



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

RE: CERCLA Liability Considerations for Airports

Chairman Carper and Ranking Member Capito,

On behalf of the Gerald R. Ford International Airport Authority (GFIAA), I am writing to you to provide perspective on the important consideration of granting Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) liability exemptions for federally mandated users. Specifically, GFIAA supports the Airports Council International-North America's (ACI-NA) letter endorsing a liability exemption for airports where federally-mandated PFAS usage ensured compliance with federal and state regulations, including providing the safest possible facilities for the traveling public.

All U.S. commercial service airports have been federally mandated for decades to use Aqueous Film Forming Foam (AFFF) containing PFAS to calibrate and test its firefighting equipment and respond to aircraft emergencies. Research has shown that AFFF is the most effective firefighting and lifesaving agent for military and commercial airport emergencies. AFFF formulations have varied significantly over their use and have contained both long carbon-fluorine chain and short carbon-fluorine chain PFAS.

Airports like the Gerald R. Ford International Airport are committed to being responsible partners with their communities by following legal requirements to operate our facilities in environmentally responsible ways. Because the federal government mandated airports use AFFF containing PFAS, airports and our local communities should not bear liability for using these chemicals in good faith to keep the traveling 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.

While the Department of Defense and the Federal Aviation Administration consider guidance for industry transition to PFAS-free firefighting foam for regulated commercial service airports, GFIAA is being proactive in our community to identify mitigation solutions via a series of research efforts and pilot programs. These efforts are helpful next steps in providing long-term solutions to this emerging challenge. Imposing CERCLA liability on airports during this period of AFFF transition and ongoing federal and airport-specific research, while awaiting more FAA guidance would unnecessarily and unfairly disrupt these efforts.

I appreciate your consideration in the matter and offer the support of GFIAA in your work.

Sincerely,

Torrance Richardson, A.A.E.
President & CEO