



Advancing Aviation - Advancing New York!

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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 to provide New York Aviation Management Association's (NYAMA) position on granting CERCLA liability exemptions for federally mandated users and ask that you include airports where federally mandated PFAS usage is the result of providing services for the public good. NYAMA is comprised of hundreds of members and affiliate members, commercial service and general aviation airports, fixed based operators, consultants, engineers and various aviation industries and professionals.

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 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 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 airports are facing with transitioning from AFFF to F3. There are provisions in S.1939, the FAA Reauthorization Act of 2023, that will help airports tackle some of these challenges. NYAMA 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 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. NYAMA is very interested in practices airports can use that are supported by 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 quickly.
- **ARFF Vehicle Proportioning System Modifications:** Existing aircraft rescue and firefighting (ARFF) vehicles equipped with fixed orifice plate proportioning systems will require time-consuming and labor-intensive modifications 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. These retrofits should be made eligible for 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. 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 mandated by the federal government to use AFFF containing PFAS, requiring the federal government to be responsible for remediation at airports is justified.

NYAMA appreciates your consideration of this important matter. If we can be of any assistance or provide additional information, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Heefner". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mark D. Heefner, President
NYAMA