

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

Dear Chairman Carper and Ranking Member Capito:

I am writing today to provide Airports Council International-North America's (ACI-NA's) perspective 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. ACI-NA represents the local, regional, and state governing bodies that own and operate commercial airports in the United States. Our members represent more than 300 airports and more than 400 aviation-related businesses nationwide.

For decades, the FAA has required airports certified to receive commercial passenger service under Part 139 to use aqueous film-forming foam (AFFF) containing PFAS. AFFF formulations have varied significantly over their use and have contained hundreds of both long carbon-fluorine chain and short carbon-fluorine chain PFAS. 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.

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 outlined below. ACI-NA 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. The DOD has led research efforts in this topic. ACI-NA and our members are 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. 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.

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

Sincerely,



Daniel J. Zenk, C.M., C.A.E.  
Deputy Director of Aviation  
Dayton International and Dayton Wright Brothers Airport