

2025

ACI-NA & ACI World Annual General Assembly, Conference and Exhibition



October 25 - 28, 2025
Toronto, ON

PFAS: What Do We Know?

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Agenda

- Background and Regulation of PFAS
- Managing Historical AFFF Use
- Managing Current AFFF Use
- F3 Conversion
- Show Me the Money
- AFFF in Canada and Beyond
- Key Takeaways

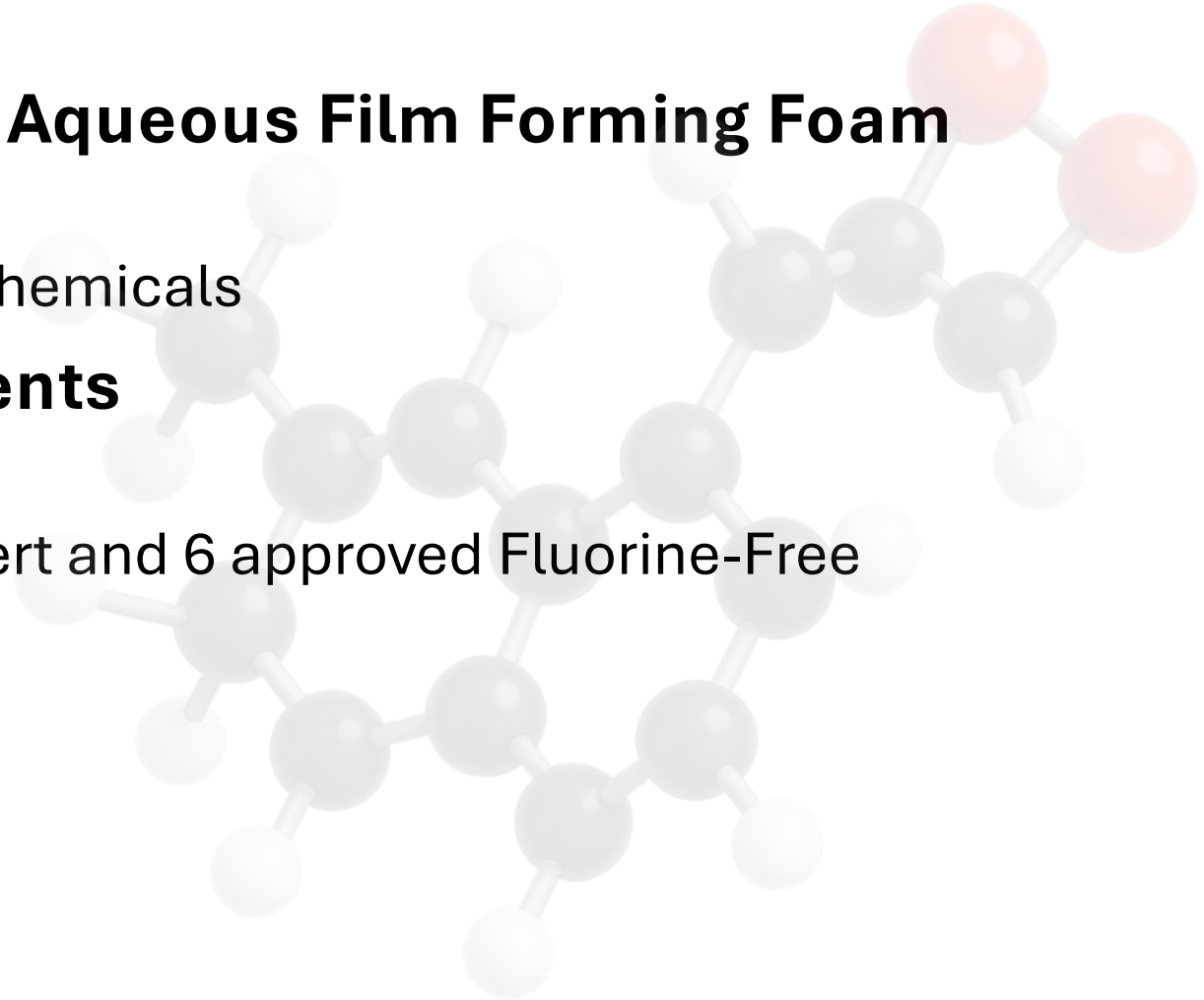


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Background and Regulation on AFFF/PFAS

Chemical nature and history with airports

- **What are PFAS chemicals and Aqueous Film Forming Foam (AFFF)?**
 - Carbon-fluorine bond – Forever Chemicals
- **AFFF & FAA Part 139 requirements**
 - Historical required use of AFFF
 - Current status – new FAA Cert Alert and 6 approved Fluorine-Free Foams (F3)



Regulation of PFAS

Government requirements

- **Federal law**

- EPA PFAS action plan
- Safe Drinking Water Act – Biden rule → Trump
- RCRA – current EPA status
- CERCLA – Biden rule → litigation → Trump → Biden rule

- **State and local laws**

- Don't forget state and local requirements

- **How clean is clean – soil, surface water and groundwater?**

Managing Historical AFFF Releases

Know your AFFF history – legacy AFFF considerations

- **Where was AFFF historically used?**
 - Fire stations and fire training areas
 - Timed response drill locations
 - Known spills/releases/uses
 - Tenant Properties – hangars, rental cars, fuel farms
 - Former U.S. Air Force sites
- **Why consider where AFFF was used/released?**
 - Minimizing liability and protecting public health
 - Construction planning
 - Proactive management, esp. impacts to surface and groundwater
- **Managing PFAS impacted soils**

Managing Current AFFF Use

Know what current AFFF you have

- **Where is it at your airport?**
 - Fire stations/hangars/fuel farms/rental car facilities
 - Is it in secondary containment?
- **SOPs for storage – how to handle releases**
 - DEN Environmental Management Plan
 - Rule 180: No party shall conduct land-disturbing activities considering the potential to encounter PFAS-impacted materials. ... When such potential exists, environmental materials must be managed in accordance with DEN's PFAS Materials Management Plan (MMP).

F3 Conversion

Considerations for transitioning to F3

- **Manage AFFF Risk by getting rid of it!**
- **Approved F3s**
- **Conversion strategies/options**
 - Purchase new ARFF rigs
 - Clean and reuse your existing ARFF rigs
- **How clean is clean for your ARFF rigs?**

Finding Money – Historical Insurance Policies

Pre-1988 Absolute Pollution Exclusion

- **The Absolute Pollution Exclusion was first approved around 1988**
 - But coverage might be available for a response incident even if the exclusion was in-place
- **General Liability Policies pre-dating that exclusion might cover costs related to historical AFFF uses, including defense and indemnification costs**
- **Look for the old policies or records of the old policies**
 - Payment records for past insurers or brokers
 - Old insurance related correspondence

Finding Money - FAA Reauthorization Act of 2024

Money (maybe) for F3 Conversion

- **Section 767 – PFAS Replacement Program for Airports**

- EPA and FAA were to create a program to reimburse airports for the costs of F3 conversion incurred after September 12, 2023
- The program would cover the costs of:
 - Buying F3
 - Disposing AFFF
 - Cleaning equipment
 - Buying new equipment related to the conversion
 - Replacing ARFF rigs.

- **For ARFF rig replacement - \$30M total grants, with \$2M per grant**

- **Other conversions costs – Congress authorized \$320M to reimburse airports for F3 conversion**

- Grants are to be determined for each airport by taking each airport's Part 139 index requirements for AFFF quantity and dividing by the total gallons of all AFFF required by all Part 139 airports' index requirements. The resulting percentage should be the share of the \$320M each airport can receive.

Finding Money - Multidistrict Litigation

Status of AFFF MDL litigation

- **4 “buckets” of plaintiffs**
- **Bellwether Process**
- **DuPont and 3M water provider settlements**
- **Airport MDL Coalition**
- **Should you join the MDL? Is it too late? Too early?**

AFFF and F3 in Canada and Beyond

Snapshot of what's happening around the world

- **The Government of Canada published a Consultation Document on September 26, 2025, with a 60-day comment period ending on November 25, 2025.**
 - **Consultation Document on Phase 1 of the Risk Management of Per- and Polyfluoroalkyl Substances (PFAS), Excluding Fluoropolymers: Prohibition of the Use of PFAS, not Currently Regulated, in Firefighting Foams**
- **The European Chemical Agency (ECHA) is actively addressing AFFF-PFAS issues.**
 - **In August, ECHA announced its timeline for its PFAS restriction evaluation – to be completed by the end of 2026.**

Key Takeaways

- **Your airport should not ignore PFAS – the issues are not going away**
- **Your airport needs a plan for managing both current AFFF and historic AFFF releases**
- **Your airport needs to make a plan for AFFF use and F3 conversions now**
- **Your airport should think about joining the MDL sooner rather than later**

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Conference Materials

<https://tinyurl.com/acilegal25>



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