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July 11, 2019

The Honorable Nancy Pelosi
Speaker of the House of Representatives
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi:

As the House continues consideration of H.R. 2500, the National Defense Authorization Act of 2020, I am writing to alert you to concerns from airport executives across the country regarding an amendment that would require the Environmental Protection Agency to designate per- and polyfluoroalkyl substances (PFAS) as a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). If approved, this proposal could lead to extensive and costly litigation and cleanup efforts at airports across the country that are required by federal regulation to use firefighting foam that contains PFAS and have no alternatives to the use of such foam.

Airports are eager to utilize alternative firefighting foam free from PFAS and were gratified by the inclusion in recently enacted Federal Aviation Administration reauthorization legislation requiring the approval of PFAS-free alternatives within three years. We have strongly encouraged the FAA to pursue the approval of alternatives as quickly as possible.

As it stands now, however, airports have no choice but to comply with regulations under section 139, title 14, Code of Federal Regulations, that require the use of aqueous film-forming foam that contains PFAS. If the amendment is approved as drafted, airports could be liable for significant remediation and clean-up costs associated with utilizing a firefighting product they are required to use by federal regulation.

At a minimum, we urge you to alter the amendment to specifically exempt airports from any liability under CERCLA for the costs of responding to or damages resulting from the use of per- or polyfluoroalkyl substances that may occur from the use of aqueous film-forming foam required under current federal regulations.

We look forward to working with you to address airport concerns in this area as Defense authorization legislation moves through the House and into conference negotiations with the Senate.

Sincerely,

Todd Hauptli
President & CEO

CC: The Honorable Peter DeFazio (D-OR), Chairman, House Transportation and Infrastructure Committee
The Honorable Adam Smith (D-WA), Chairman, House Armed Services Committee