

## **AFFF and PFAS At Forefront of Federal Action This Week**

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Not long after the Department of Defense (DOD) provided a report in which it identified substitutes for PFAS-containing AFFF but indicated that each might not be feasible, legislators yesterday continued to apply pressure to the federal government with proposed legislation to ban the manufacture, import, and sale of any PFAS-containing AFFF in the United States. While the government (both federal and state level) has shown a commitment to finding ways to phase out the use of PFAS-containing AFFF, the DOD's assessment of AFFF and PFAS free substitutes should not be ignored, especially for proponents concerned about potential regrettable substitutes for PFAS-containing AFFF.

### **The DOD's AFFF and PFAS Report**

In a [recent report](#) regarding the viability of AFFF-free substitutes for PFAS-containing AFFF, the DOD identified six potential options for phasing out the use of PFAS-containing AFFF; however, it identified issues with each potential solution. The report was a benchmark by the DOD in its efforts to comply with a Congressional deadline of October 1, 2024 to phase out all PFAS-containing AFFF, which was part of the [2020 National Defense Authorization Act](#) (NDAA). The NDAA also contains a requirement that by October 2023, the DOD issue a military specification (Mil-Spec) for firefighting foam that does not contain PFAS.

The DOD identified six solutions for replacing PFAS-containing AFFF – one PFAS-free foam and five engineering controls. The PFAS-free foam, Hi-Ex, is capable of smothering fires when sprayed; however, the DOD notes that Hi-Ex is very expensive and “some structures [will be] unable to bear heavy foam generators” necessary to use the Hi-Ex product. The DOD also noted concerns that the Hi-Ex foam may not act as quickly as desired in smothering large fires, which will allow fires time to grow in size, as well as a concern that the foam generating system is “susceptible to accidental activation”, which would cause property damage.

In contrast to foam products, the DOD also details several engineering solutions, including water-based sprinkler technologies and structural solutions – trench nozzles and ignitable liquid drainage floors. The structural solutions, the DOD notes, come with high price tags to retrofit all facilities with these engineering solutions. Further, the DOD notes that water-based solutions, while environmentally desirable, do not conform to required code in that they cannot adequately extinguish fuel fires.

## **Upcoming AFFF Legislation**

Representatives from both the House and Senate announced yesterday that they will introduce companion legislation in both chambers of Congress. The proposed legislation would ban the manufacture, import, and sale of PFAS-containing AFFF. The text of the bill is not yet available, but representatives noted that the bill would require a complete ban at airports by October 2024. To support the need for the bill, representatives pointed to the fact that several other countries have enacted AFFF and PFAS bans already, and the current legislation requiring the federal government to find substitutes does not go far enough. Statements made by proponents of the upcoming bill stressed that viable alternatives to PFAS-containing AFFF exist; however, the DOD report is at odds with that statement.

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