



October 20, 2023

The Honorable Jared G. Solomon
Chair
House Veterans Affairs &
Emergency Preparedness
P.O. Box 202202
Harrisburg, PA 17120-2202

The Honorable Mark M. Gillen
Chair
House Veterans Affairs &
Emergency Preparedness
P.O. Box 202128
Harrisburg, PA 17120-2128

RE: **Senate Bill 144 – Firefighting Foam Management**

Dear Chairmen:

The Pennsylvania-Section, American Water Works Association (PA-AWWA) consists of 2,500 + members representing all classes of water utilities in Pennsylvania, including those PUC regulated, authorities, and municipalities, plus regulators, vendors, contractors, engineers, and others dedicated to promoting the health and welfare of Pennsylvania by providing affordable drinking water of superior quality and sufficient quantity. The Water Utility Council of PA-AWWA (WUC) includes representatives from the National Association of Water Companies, Pennsylvania Chapter; Pennsylvania Municipal Authorities Association; Pennsylvania Rural Water Association; and Water Works Operators' Association of Pennsylvania.

The **WUC offers the following comments on Senate Bill 144**, which passed the Senate, 36-14, on March 7, 2023, and was subsequently referred to the House Veterans Affairs & Emergency Preparedness Committee on March 8, 2023.

Senate Bill 144 (Yaw-R) amends Title 35 (Health & Safety), in Commonwealth services, providing for firefighting foam management. Specifically, this legislation:

- Provides for firefighting foam management, prohibiting the discharge or usage of a class B firefighting foam that contains an intentionally added PFAS chemical for testing purposes or training purposes.
- Directs the State Fire Commissioner to assist firefighting entities with evaluating and determining how to transition to the use of class B firefighting foam that does not contain an intentionally added PFAS chemical for testing purposes.
- Provides for a civil penalty not exceeding \$5,000 for a first offense, followed by a civil penalty not exceeding \$10,000 for the second or subsequent offenses.
- Directs deposits of penalties to the Online Training Educator and Training Reimbursement Account.

- Requires manufacturers of personal protective equipment (PPE) for fire prevention or control activities to affix a warning label to the product if it contains a perfluorooctane (PFOS) or perfluorooctanoic acid (PFOA).
- Provides enforcement to the Office of the State Fire Commissioner.

Many organizations worldwide mandate the use of firefighting foam that contains PFAS, known as Aqueous Film Forming Foam (AFFF), because of its effectiveness in fighting aircraft fires. However, according to the Environmental Protection Agency (EPA), certain PFAS can cause serious health problems, including cancer, if people are exposed to them over a long period of time, and they can also be harmful to aquatic and terrestrial organisms.

With respect to drinking water, on March 14, 2023, the Biden-Harris Administration announced it is proposing the first-ever national drinking water standard for six per- and polyfluoroalkyl substances (PFAS) in the latest action under President Biden's plan to combat PFAS pollutionⁱ and Administrator Regan's PFAS Strategic Roadmap.ⁱⁱ Through this action, the U.S. Environmental Protection Agency (EPA) is taking a major step to protect public health from PFAS pollution, leveraging the latest science and complementing state efforts to limit PFAS by proposing to establish legally enforceable levels for six PFAS known to occur in drinking water.

Moreover, in Pennsylvania, the Department of Environmental Protection (DEP) adopted a final-form rulemaking, "Safe Drinking Water PFAS MCL Rule,"ⁱⁱⁱ that went into effect on January 14, 2023, creating state Maximum Contaminant Levels (MCLs) for both PFOA and PFOS. The PFOA and PFOS MCLs apply to all 3,117 community, nontransient noncommunity, bottled, vended, retail and bulk water systems in this Commonwealth.

While these state MCLs are important to protect our drinking water, additional protections from the use of firefighting foam that contains PFAS are critically needed to prevent a water contamination event like the one that occurred in McKeesport, PA^{iv} where the firefighting foam was hooked up to a hydrant and a backflow event sucked the foam into the water distribution system resulting in a do not consume order.

Therefore, the **WUC is respectfully requesting the committee to consider the attached amendments to Senate Bill 144 to protect drinking water systems from backflow events.** Specifically, the proposed WUC amendment would:

- Prohibit a firefighting entity from accepting class B foam containing PFAS from an airport, individual, manufacturer, government entity, or another firefighting entity.
- Prohibits the use of a class B foam containing PFAS without using an ASSE International approved backflow prevention device installed on apparatus equipment by the firefighting entity.
 - Such a device is inexpensive (\$150).^v

- Title 35 defines "Apparatus equipment." Elevated equipment, pumpers, tankers, ladder trucks, utility or special service vehicles, ambulances, rescue vehicles or other large equipment used for firefighting and emergency services.
- Requires the firefighting entity to annually test and certify the backflow prevention device.
- Require 1-hour notice to DEP and the public water supplier when a class B foam containing PFAS is used in emergency firefighting or fire suppression operations.

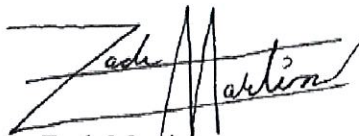
By requiring backflow protection to be installed on "apparatus equipment" by the firefighting entity when they deem it necessary to use firefighting foam containing PFAS, the drinking water system will be protected from backflow events like that which occurred in McKeesport, Pa. If we are going to require our drinking water systems to invest millions of dollars to remove forever chemicals from our source water, we need to make sure that these chemicals do not accidentally enter our distribution systems through backflow events that can occur during firefighting.

The WUC believes that these simple amendments will help protect our drinking water from accidental backflow events; prevent class B foam containing PFAS from being "donated" to our volunteer fire companies (instead of properly being disposed of); and provide notice to both the water supplier and DEP of the use of class B firefighting foam so its effects can be minimized, and our drinking water protected.

Finally, according to a September 29, 2023, issue of AWWA's "Water Utility Insider," "the U.S. Federal Aviation Administration (FAA) has notified^{vi} airports of the availability of Fluorine-Free Foam (F3) that meets Military Specification and has been added to the Navy's Qualified Products List (QPL). Firefighting foams on the QPL are considered acceptable for satisfying regulatory requirements. While the FAA is not requiring airports to use the new F3 products, a transition plan^{vii} is available to assist those airports who do transition from aqueous film-forming foam (AFFF) to F3 foams."

Again, the WUC respectfully requests the committee's consideration of these important amendments to Senate Bill 144 to protect our drinking water and coincide with the legislation's protections of our firefighters from these harmful chemicals.

Respectfully submitted,



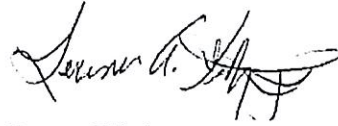
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ⁱ FACT SHEET: Biden-Harris Administration Takes New Action to Protect Communities from PFAS Pollution, MARCH 14, 2023

<https://www.whitehouse.gov/briefing-room/statements-releases/2023/03/14/fact-sheet-biden-harris-administration-takes-new-action-to-protect-communities-from-pfas-pollution/>

ⁱⁱ PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024

<https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024>

ⁱⁱⁱ "Safe Drinking Water PFAS MCL Rule," Pennsylvania Bulletin, January 14, 2023

<https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol53/53-2/46.html>

^{iv} "Hundreds In McKeesport Still Being Told Not To Use Water After Possible Contamination," July 17, 2021, CBS Pittsburgh

<https://www.cbsnews.com/pittsburgh/news/mckeesport-water-advisory-in-place/>

^v Portable In Line Foam Inductor for fire truck

https://www.alibaba.com/product-detail/Portable-In-Line-Foam-Inductor-for_60673245403.html

^{vi} Federal Aviation Administration, "National Part 139 CertAlert," 9/13/2023

https://www.faa.gov/sites/faa.gov/files/part_139_cert_alert_23_07_F3_Release.pdf

^{vii} Federal Aviation Administration, "Fluorine-Free Foam (F3) Transition for Aircraft Firefighting"

https://www.faa.gov/airports/airport_safety/aircraft_rescue_fire_fighting/f3_transition

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 144 Session of 2023

INTRODUCED BY YAW, COLLETT, MARTIN, COMITTA AND FARRY, JANUARY 19, 2023

AS AMENDED ON THIRD CONSIDERATION, MARCH 6, 2023

AN ACT

Amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, in Commonwealth services, providing for firefighting foam management.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 35 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 7390. Firefighting foam management.

(a) Prohibited conduct.--

(1) Beginning January 1, 2024, no person, firefighting entity, the Commonwealth nor a municipality may discharge or otherwise use a class B firefighting foam that contains an intentionally added PFAS chemical for:

(i) testing purposes at a facility, unless:

(A) otherwise required by law or the governmental entity having jurisdiction over the testing facility; and

(B) the facility has implemented appropriate

containment, treatment and disposal measures to prevent the uncontrolled release of the class B firefighting foam into the environment; or

(ii) training purposes, unless the training involves replacing the class B firefighting foam that contains an intentionally added PFAS chemical with nonfluorinated training foam.

(2) The State Fire Commissioner shall assist firefighting entities with evaluating and determining how to transition to the use of class B firefighting foam that does not contain an intentionally added PFAS chemical for testing purposes.

(3) (i) An individual or fire department who administers a training program in violation of this section shall be subject to a civil penalty not to exceed \$5,000 for a first offense.

(ii) An individual or fire department who administers a training program in violation of this section for a second or subsequent offense shall be subject to a civil penalty not to exceed \$10,000.

(iii) Penalties collected under this section shall be deposited into the Online Training Educator and Training Reimbursement Account.

(4) NO FIREFIGHTING ENTITY MAY ACCEPT CLASS B FIREFIGHTING FOAM THAT CONTAINS AN INTENTIONALLY ADDED PFAS CHEMICAL FROM AN AIRPORT, INDIVIDUAL, MANUFACTURER, GOVERNMENT ENTITY, OR ANOTHER FIREFIGHTING ENTITY UPON THE EFFECTIVE DATE OF THIS ACT.

(5) NO PERSON, FIREFIGHTING ENTITY, THE COMMONWEALTH NOR

A MUNICIPALITY MAY DISCHARGE OR OTHERWISE USE A CLASS B
FIREFIGHTING FOAM THAT CONTAINS AN INTENTIONALLY ADDED PFAS
CHEMICAL IN EMERGENCY FIREFIGHTING OR FIRE SUPPRESSION
OPERATIONS WITHOUT USING AN ASSE INTERNATIONAL APPROVED
BACKFLOW PREVENTION DEVICE INSTALLED ON APPARATUS EQUIPMENT
BY THE FIREFIGHTING ENTITY.

(i) THE FIREFIGHTING ENTITY SHALL ANNUALLY TEST AND
CERTIFY THE BACKFLOW PREVENTION DEVICE IN ACCORDANCE WITH
GUIDELINES PROMULGATED BY THE OFFICE OF THE STATE FIRE
COMMISSIONER.

(b) Warning labels.--A manufacturer of personal protective
equipment ~~for~~ USED IN fire prevention, FIREFIGHTING or FIRE
control activities in this Commonwealth shall affix a warning
label to the SUCH product SOLD FOR USE IN THIS COMMONWEALTH THAT
INDICATES if the product contains a perfluorooctane (PFOS) or
perfluorooctanoic acid (PFOA).

(C) NOTICE TO PUBLIC WATER SYSTEMS AND DEPARTMENT OF
ENVIRONMENTAL PROTECTION.--NOTICE SHALL BE PROVIDED WITHIN 1 HOUR
TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE PUBLIC
WATER SYSTEM OF RECORD WHERE THERE IS A DISCHARGE OR OTHER USE
OF CLASS B FIREFIGHTING FOAM THAT CONTAINS AN INTENTIONALLY
ADDED PFAS CHEMICAL IN EMERGENCY FIREFIGHTING OR FIRE
SUPPRESSION OPERATIONS.

(e D) Enforcement.--The Office of the State Fire
Commissioner shall enforce the provisions of this section.

(d E) Construction.--Nothing in this section shall be
construed to restrict:

(1) the manufacture, sale or distribution of class B
firefighting foam that contains an intentionally added PFAS

chemical; or

(2) the discharge or other use of class B firefighting foam that contains an intentionally added PFAS chemical in emergency firefighting or fire suppression operations.

(e F) Definitions.--The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"APPARATUS EQUIPMENT." ELEVATED EQUIPMENT, PUMPERS, TANKERS, LADDER TRUCKS, UTILITY OR SPECIAL SERVICE VEHICLES, AMBULANCES, RESCUE VEHICLES OR OTHER LARGE EQUIPMENT USED FOR FIREFIGHTING AND EMERGENCY SERVICES.

"BACKFLOW." THE UNDESIRABLE REVERSAL OF FLOW OF A LIQUID, GAS, OR SUSPENDED SOLID INTO THE POTABLE WATER SUPPLY.

"BACKFLOW PREVENTION DEVICE." A DEVICE USED TO PROTECT POTABLE WATER SUPPLIES FROM CONTAMINATION OR POLLUTION DUE TO BACKFLOW.

"Class B firefighting foam." A foam designed for extinguishing flammable-liquid fires.

"Firefighting entity." An entity that engages in fire prevention or control activities in this Commonwealth. The term shall include municipal fire departments and volunteer fire companies.

"MANUFACTURER." A PERSON THAT MANUFACTURES, IMPORTS OR DISTRIBUTES DOMESTICALLY PERSONAL PROTECTIVE EQUIPMENT FOR FIREFIGHTING ENTITIES.

"PERSONAL PROTECTIVE EQUIPMENT." ITEMS DESIGNED, INTENDED OR MARKETED TO BE WORN BY FIREFIGHTING ENTITY PERSONNEL IN THE PERFORMANCE OF THEIR FIRE AND RESCUE ACTIVITIES, INCLUDING JACKETS, PANTS, SHOES, GLOVES, HELMETS AND RESPIRATORY

EQUIPMENT.

"PFAS chemical." A fluorinated organic chemical that contains at least one fully fluorinated carbon atom and is designed to be fully functional in formulations of class B firefighting foam.

"PUBLIC WATER SYSTEM." AS DEFINED IN SECTION 3 OF THE ACT OF MAY 1, 1984 (P.L. 206, No. 43), KNOWN AS THE PENNSYLVANIA SAFE DRINKING WATER ACT.

"Testing." The term shall include testing related to calibration, conformance and fixed system.

Section 2. This act shall take effect immediately.