



FDSA

FIRE DEPT SERVICE ANNOUNCEMENT

Bulletin #67, October 14, 2022, MDL

The Aqueous Film-Forming Foam (AFFF) Multi-District Litigation (MDL) is presently going through a pre-trial consolidation of more than 3,019 cases on the use of PFAS in AFFF.¹ The defendants are asserting the government contractor defense protection to avoid legal liability.²

The defendant names are familiar to the fire service: 3M, Chemguard Inc., DuPont, Kidde-Fenwal Inc., National Foam Inc., Tyco Fire Products, Buckeye Fire Equipment, Perimeter Solutions LP, and Dynax Corp., among many others. Early next spring the first of three AFFF bellwether cases will proceed to trial.

“3M Co. failed to persuade the federal judge presiding over PFAS mass tort litigation that the company is immune from liability for alleged damages for the toxic substances as a government contractor.

[Judge] Gergel said that records show that the government didn't know PFAS was present in AFFF until the year 2000, and that 3M [had] conducted more than 1,000 internal studies on the presence of PFAS and its toxicity but never publicly disclosed it. Records also show that 3M lied to the public about the presence of PFAS in people's blood as early as the 1970's, the judge said.”³

“During the hearing on August 10, 2022 on the government contractor issue, Judge Gergel indicated that he had serious doubts as to whether the government contractor defense applies to the facts of the PFAS AFF (sic) MDL. His review of the cited caselaw in the briefing did not support an award of the government contractor defense under these facts, he said.”⁴

Plaintiffs are arguing that “the chemical industry is engaged in a decades-long campaign of falsehoods about the dangers of PFAS generally and the foam specifically. How, they ask, can the chemical companies claim that the government knew about the risks of PFAS in the foam if the companies continue to deny such risks exist?”⁵

1 StarTribune, Firefighting foam trials present next big PFAS challenge for 3M, Mike Hughlett, October 1, 2022, <https://www.startribune.com/3m-faces-next-pfas-hurdle-bellwether-cases-regarding-firefighting-foam/600211948/>

2 The National Law Review, AFFF PFAS MDL Supplemental Briefing Filed With Court, Vol XII, Number 262, September 1, 2022, <https://www.natlawreview.com/article/aff-pfas-mdl-supplemental-briefing-filed-court>

3 Bloomberg Law, 3M Loses US contractor Immunity Argument in PFAS Case (1), Sept. 16, 2022, Samantha Hawkins, <https://news.bloomberglaw.com/us-law-week/3m-loses-government-contractor-defense-in-pfas-litigation>

4 The National Law Review, AFFF PFAS MDL Supplemental Briefing Filed With Court, Vol XII, Number 262, September 1, 2022, <https://www.natlawreview.com/article/aff-pfas-mdl-supplemental-briefing-filed-court>

5 Politico, The Long Game, Forever chemicals are seeping through the courts, Debra Kahn, Ry Rivard & Jordan Wolman, 08/16/2022, <https://www.politico.com/newsletters/the-long-game/2022/08/16/forever-chemicals-are-seeping-through-the-courts-00052130>



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STOP USING OLD FOAM CONCENTRATE!

You can help protect yourself, the environment, and your community's health.



Stop using AFFF foam concentrate for training or for any non-Class B fires

Public Act 21-191 prohibits use for training and testing.



Stop using AFFF foam concentrate for Class B fires

State law prohibits use as of October 1, 2021. (October 1, 2023 for aviation)



Purchase and use a fluorine-free alternative instead



Some extensions apply.
Questions? Contact the State Fire Administrator at FoamSurvey@ct.gov



Thank you to the State Fire Administrator in Connecticut:
https://portal.ct.gov/-/media/DEEP/site_clean_up/PFAS/PFAS_FireFoamBan_Infographic.pdf