



March 20th, 2024

The Honorable Tom Carper  
Chairman, Environment & Public Works Committee  
513 Hart Senate Office Building  
Washington DC 20510

The Honorable Shelley Moore Capito  
Ranking Member, Environment & Public Works  
Committee  
170 Russell Senate Office Building  
Washington DC 20510

Dear Chairman Carper and Ranking Member Capito,

The National Asphalt Pavement Association (NAPA) welcomes today's hearing titled, "*Examining PFAS as Hazardous Substances*" and we'd like to share some relevant insights on behalf of the asphalt pavement industry regarding Per- and polyfluoroalkyl substances (PFAS).

Asphalt producers provide critical airport repair and maintenance projects, including potentially handling PFAS contaminated airport pavements. Earlier this year, NAPA, governmental agencies, and other stakeholders received federal funding to investigate the ability of using recycled pavement to encapsulate PFAS contamination from fire-fighting foam. Any legislation to address PFAS must consider the impact on important airport infrastructure projects and should encourage efforts to safely recycle and reclaim airport pavements.

NAPA is the only national trade association exclusively representing companies involved in the production and application of asphalt pavement mixtures. Together with our state association partners, representing thousands of companies and over 350,000 hard working men and women across the nation, NAPA and the asphalt pavement industry prides itself on achieving the highest possible standards to protect our workers, our customers, and the environment. Asphalt pavements represent over 90% of the roadway market and 80% of the airfield market, spanning major commercial airports, municipal and private runways, as well as defense and military installations.

To better understand our focus, asphalt pavement production has three key material inputs:

1. **Aggregates:** the stone, sand and gravel that form the material foundation of asphalt pavement – constituting around 95% of the finished product;
2. **Asphalt binder:** the petroleum-based product that acts as the “glue” to ensure that aggregates and other raw materials remain stabilized and inert – constituting about 5% of the finished product; and
3. **Reclaimed asphalt pavement (RAP):** the asphalt material removed at the end of lifecycle and reprocessed into new asphalt pavement mix. This RAP material is vital to the industry's decarbonization commitment because it reuses the aggregate and asphalt binder, often at an inclusion rate of 20% into new roadway pavements.

NAPA members provide critical airport repair and maintenance projects that may unintentionally encounter reclaimed asphalt materials containing PFAS. The industry's concern is focused on the presence of PFAS in certain aqueous film-forming foams (AFFFs) required to be used by the Federal Aviation Administration (FAA) during fire-fighting training exercises at ~5,000 commercial passenger airports and countless military bases across the nation. Our concern is the risk of incurring any liability where PFAS chemical compounds associated with AFFF may become embedded in airfield pavement that is later removed and reclaimed by our industry.

Congress must ensure that any PFAS legislation, including proposals to designate PFAS as a hazardous substance under federal environmental statutes (RCRA, CERCLA) also considers impact on the ability to continue utilizing RAP and the impact on critical airfield pavement contracting work in the future.

Regulatory uncertainty and potential litigation risk will dissuade pavement contractors from the critical work necessary to keep our airport runways maintained and operating smoothly. The asphalt pavement industry is eager to work with this committee and agency stakeholders on solutions that maintain and advance environmental protections, without threatening strict liability for innocent handling of materials that may contain PFAS.

We thank you for your time and we look forward to working with you on this key regulatory policy.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Nile Elam', with a long horizontal flourish extending to the right.

Nile Elam  
Vice President of Government Affairs,  
National Asphalt Pavement Association