

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

<b>IN RE: AQUEOUS FILM-FORMING FOAMS PRODUCTS LIABILITY LITIGATION</b>	MDL No. 2:18-mn-2873-RMG  <b>Case Management Order No. 5C</b>  <b>This Order relates to ALL CASES</b>
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**State Government Plaintiff Fact Sheets**

1. Case Management Orders No. 5 and 5A (collectively “CMO No. 5/A”) currently govern the form, procedure, and schedule for the completion and service of Plaintiff Fact Sheets (“PFS”) as to all Member Actions of MDL 2873 except for those actions brought by State Government or United States Territory Government Plaintiff(s) (the “State Government Plaintiff(s)”).

2. Defense Leadership, the PEC, and all current State Government Plaintiffs have now reached agreement as to the form of a State Government PFS to be used for all Member Actions brought by any State Government Plaintiff(s), including any Member Action(s) filed in or transferred to MDL 2873 after the date of this order.

3. Defense Leadership, the PEC, and all current State Government Plaintiffs have also agreed that CMO No. 5/A are incorporated in whole into this CMO, except that all current State Government Plaintiffs shall have 112 days from Court approval of this order to serve their completed State Government PFS and any future State Government Plaintiff(s) shall have 112 days from the date the Court docket a direct-filed or transferred State Government action into MDL 2873 to serve their completed State Government PFS.

**AND IT IS SO ORDERED.**

s/ Richard Mark Gergel  
Richard Mark Gergel  
United States District Judge

July 23, 2020  
Charleston, South Carolina

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

IN RE: Aqueous Film-Forming Foams (AFFF)  
Products Liability Litigation

MDL No. 2873

**EXHIBIT 1**

**TO CASE MANAGEMENT ORDER NO. 5C  
STATE GOVERNMENT PLAINTIFF FACT SHEET**

***IN RE: Aqueous Film-Forming Foams (AFFF)  
Products Liability Litigation***

This State Government Plaintiff Fact Sheet is to be completed by State Government Plaintiff(s) or United States Territory Government Plaintiff(s) (the “State Government Plaintiff(s)”) in any action transferred to or originally filed in this multi-district litigation that is brought by State Government Plaintiff(s) as trustee for natural resources of the State, in their *parens patriae* capacity on behalf of residents of the State, and/or any other similar capacity related to State sovereign or quasi-State sovereign interests. For the purposes of this State Government Plaintiff Fact Sheet, “you” or “your” refers to the named State Government Plaintiff(s) in each action only and is circumscribed by relevant law governing the scope of and limitations on each particular State Government Plaintiff’s control over non-plaintiff state agencies.<sup>1</sup> The scope of the questions herein and responses thereto will be limited to information and/or documents within the possession, custody, or control of those Plaintiffs. In completing this State Government Plaintiff Fact Sheet, you are under oath, subject to the penalties of perjury, and must provide information that is true and correct to the best of your knowledge. If you cannot recall all the details requested, please provide as much information as you can. If a response will require in part or in full an expert opinion(s), please so indicate, but such an indication shall not be a basis for failure to respond with information and facts in the possession of the State Government Plaintiff at this time. Materials prepared by your attorneys for use in the litigation (Attorney Work Product) are not required to be produced, nor are documents subject to any other applicable privileges or protections, including but not limited to the deliberative process privilege, required to be produced. You must complete the State Government Plaintiff Fact Sheet in accordance with the requirements and guidelines set forth in Case Management Order No. 5 and subject to the processes and procedures set forth in CMO No. 5, except that State Government Plaintiffs shall have 112 days from Court approval of this Fact Sheet to submit responses. To the extent that any response requires additional space, please insert additional space or information or attach a continuation sheet referencing the question at issue. While the State Government Plaintiffs’ pre-filing and subsequent investigative efforts have been substantial, Plaintiffs have not fully completed, among other things, their: (i) investigation of all of the facts relating to the respective litigation(s); (ii) discovery; or (iii) preparation for trial. The State Government Plaintiff(s)’ Responses are based upon facts and information known by the respective State Government Plaintiff at the time of responding to this State Government Plaintiff Fact Sheet and upon the current status of the proceedings. State Government Plaintiff(s) reserve the right to supplement, modify, or amend these responses in accordance with the applicable Rules of Civil Procedure. **ALL ASPECTS OF THIS STATE GOVERNMENT PLAINTIFF FACT SHEET ARE DESIGNATED AS CONFIDENTIAL AND COVERED BY THE PROTECTIVE ORDER.**

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<sup>1</sup> For the avoidance of doubt, the definition of “you” or “your” excludes state executive agencies that are not named plaintiffs in the respective State Government litigation and over whom the named Plaintiff does not have the requisite control for purposes of discovery. Defendants reserve the right to seek additional information concerning any claims of lack of requisite control, and Defendants do not waive any rights to seek discovery from any such other state executive agencies.

**I. CASE INFORMATION**

1. Caption: \_\_\_\_\_

2. Docket No.: \_\_\_\_\_

**II. PLAINTIFF INFORMATION**

3. Plaintiff's Name: \_\_\_\_\_

4. Plaintiff's Address: \_\_\_\_\_

5. Name of individual signing this Plaintiff Fact Sheet (or portion of this Plaintiff Fact Sheet) and his/her relationship to Plaintiff:

\_\_\_\_\_

**III. ALLEGED CONTAMINATION**

6. Do you claim that the State's natural resources were or are injured or endangered as a result of contamination with per- or polyfluoroalkyl substances ("PFAS," an umbrella term that includes, among other substances, perfluorooctane sulfonate (PFOS) and/or perfluorooctanoic acid (PFOA)), related to the storage, use, and/or disposal of aqueous film forming foam ("AFFF")?  Yes  No

For each site where you have identified such injury, describe the general nature of the alleged harm or endangerment, or provide documents sufficient to indicate the general nature of the alleged harm or endangerment as to each site or location.

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\_\_\_\_\_  
\_\_\_\_\_

7. Do you claim that PFAS poses a risk to human health?  Yes  No

If yes, describe all such claimed risks or provide documents related thereto.

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\_\_\_\_\_  
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8. At this time, are you claiming damages on behalf of a specific drinking water provider(s) within the State?  Yes  No

If “yes,” identify each drinking water provider on behalf of which you are claiming damages.

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9. Are you otherwise claiming damages as a result of an alleged injury to the drinking water within the State?  Yes  No

If “yes,” identify each drinking water source(s) (e.g., by geographic area, GIS coordinates, water system, wellhead and well depth, or other identifying information as available and if known) with respect to which you are claiming damages.

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10. If you answered “Yes” to Question #8 and/or Question #9, please identify all geographic regions or communities served by the water provider(s) or water source(s) identified.

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11. State the location(s) with respect to which you assert a claim in these MDL proceedings relating to PFAS contamination. For each such site, provide documents related to the source of PFAS contamination at that site, if known.

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12. For each site identified in the response to the prior question, provide the test results and test data for all tests that you have conducted or of which you are aware for the presence of PFAS contamination in water, soil, air, wildlife, and/or other natural resources.

13. Do you claim that any military base(s) or site(s) operated now or in the past by any agency or department of the U.S. government are a potential source of alleged AFFF-related PFAS contamination?  Yes  No

If yes, please identify the site(s):

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14. Do you claim that any FAA Part 139 airports are a potential source of alleged AFFF-related PFAS contamination?  Yes  No

If yes, please identify the site(s):

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15. Do you have any documents or other information (other than what has been produced by Defendants in this litigation) identifying the specific products that you claim to have caused the alleged AFFF-related PFAS contamination and/or indicating how those products reached the site/location of the alleged contamination (*i.e.* photos of product labels at the site, invoices, shipping labels, identity of witnesses, etc.)?  Yes  No

If yes, do you have any documents or other information identifying the specific location where these products were allegedly used?  Yes  No

If yes to either/both of the above questions, attach to this form or provide copies of those documents, referencing this question.

16. Have you ever issued or directed, caused, or requested others to issue warnings or advisories (including drinking water, hunting, or fish advisories) regarding the presence of PFAS in the State?  Yes  No

If yes, identify or provide documents reflecting the intended recipients of the warning or advisory, the manner in which it was sent out, the approximate date of the warning or notification, and the contents of the warning or notification:

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17. Have you ever enacted or promulgated any legal or advisory standards, regulations, or guidance for the presence or levels of PFAS compounds in groundwater, surface waters, soil and/or drinking water in the State?  Yes  No

If yes, identify or provide documents reflecting all such standards, regulations, or guidance:

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**IV. REMEDIATION AND DAMAGES**

**18. If you answered “yes” to Question 6 (natural resource damages or endangerment), identify the nature of the alleged natural resource damages or endangerment for which you are seeking to recover.**

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**19. If you answered “yes” to Questions 8 and/or 9 (drinking water damages), identify the categories of the alleged drinking water damages for which you are seeking to recover.**

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**20. Identify the categories of any other alleged damages, costs, or other relief for which you are seeking to recover.**

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**21. Are you aware of any steps that have been taken to remediate or mitigate the claimed impact of any AFFF-related PFAS contamination for which you are seeking to recover?**  
 Yes  No

If yes, describe or provide documents about completed remediation or mitigation projects, or site-related actions that have been taken as of the date of each respective State’s responses,



including identifying all actions taken, the date(s) on which such actions were undertaken, and the costs of such actions, if known.

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22. Are you currently aware of any action that will be taken in the future to remediate or mitigate the claimed impact of any AFFF-related PFAS contamination for which you are seeking to recover?  Yes  No

If yes, describe or provide documents about remediation or mitigation projects, or site-related actions that you know will be taken as of the date of each respective State's responses, including identifying all actions to be taken, the date(s) on which such actions are expected to be undertaken, and the estimated, budgeted, projected, or calculated costs of such actions, if known.

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23. Have you obtained any recovery or reimbursement of funds from any other entities (public or private) for investigation, testing, or remediation in connection with the presence of AFFF-related PFAS contamination for which you are seeking to recover?  Yes  No

If yes, please identify any such recoveries or attach or provide documents sufficient to identify them, and attach or provide any documents reflecting efforts to obtain such recovery or reimbursement.

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**DOCUMENTS**

**Provide all documents and records in your possession which you used and/or relied upon to complete this PFS form, including but not limited to those documents specifically requested in the above questions.**

**VERIFICATION**

I am an authorized agent of the Plaintiff identified below, and I hereby certify that the matters stated herein are either based upon personal knowledge of the undersigned, or for matters not based upon personal knowledge of the undersigned, the facts stated herein have been assembled by authorized employees and counsel to such Plaintiff; and that the undersigned is informed that the facts stated therein are true. I further certify in my capacity as an authorized agent of the Plaintiff identified below that the responses herein are true and complete to the best of the Plaintiff's knowledge, based upon a reasonably diligent search and analysis of the information available to the Plaintiff and its counsel, and that the requested documentation has been provided.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Date