WEST VIRGINIA CODE: §29-3-5g

§29-3-5g. Class B fire-fighting foam.

(a) The State Fire Commission shall, on or before July 1, 2021, propose rules for legislative approval in accordance with §29A-3-1 *et seq*. of this code to provide:

(1) Standard safe practices for the discharge or otherwise use class B fire-fighting foam that contains intentionally added polyfluoroalkyl substances (PFAS).

(2) For purposes of this section:

“Aqueous Film Forming Foam (AFFF)” means a fluorinated surfactant with a foam stabilizer which is diluted with water to act as a temporary barrier to exclude air from mixing with the fuel vapor by developing an aqueous film on the fuel surface of some hydrocarbons which is capable of suppressing the generation of fuel vapors.

"Class B fire-fighting foam" means any foam designed to extinguish flammable liquid fires.

"PFAS chemicals" means nonpolymeric perfluoroalkyl and polyfluoroalkyl substances that are a group of man-made chemicals that contain at least two (2) fully fluorinated carbon atoms, excluding gases, and volatile liquids.

"Testing" means calibration testing, conformance testing, or fixed system testing.

"Testing Facility" allows the discharge of foam in a non-emergency situation for the evaluation and calibration of firefighting equipment and foam. This facility may also have the capability to provide some level of needed training for firefighters.

"Fixed Foam System" means a complete installation piped from a central foam station, discharging through fixed discharge devices on the flammable liquid hazard being protected. Foam proportioning components are permanently installed. The system has been engineered for the hazard and often contains multiple (UL or FM) listed components and foam.

"Foam Training Facility" shall mean to allow the discharge of foam in a nonemergency situation for the training of firefighters and readiness of equipment. This facility may also have the capability to provide some level of needed evaluation and calibration of equipment and foam.

(b) On or after July 1, 2021, no person, fire department, state department, agency, board, bureau, office, commission, public corporation, or authority; county, municipal corporation, school district, or other political subdivision of this state may discharge or otherwise use class B fire-fighting foam that contains intentionally added PFAS chemicals unless:

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(1) The discharge or other use occurs in fire prevention or in response to an emergency fire-fighting operation; or

(2) The discharge or other use is for training or testing purposes which occurs at a facility that has implemented containment, storage, treatment, and disposal measures to prevent uncontrolled releases of such class B fire-fighting foam into the environment.

(c) Nothing in this code section may be construed to:

(1) Restrict the manufacture, sale, or distribution of class B fire-fighting foam that contains intentionally added PFAS chemicals or restrict the discharge or other use of class B fire-fighting foam in response to an emergency fire-fighting operation; or

(2) Prevent the use of nonfluorinated foams, including other class B fire-fighting foams, for purposes of training for fire-fighting operations.

(d) The State Fire Commission may establish work groups and seek input in the rulemaking process from groups or individuals with an interest in any aspect of the use of class B fire-fighting foams.

(e) The State Fire Commission shall find a method to dispose of used or accumulated AFFF and other class B fire-fighting foams, including, but not limited to, transporting the contained AFFF to an accredited disposal company. If necessary, the State Fire Commission shall contract with an accredited disposal company for this purpose. The State Fire Commission may coordinate with the Department of Environmental Protection to ensure safe disposal.

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