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PAUL D. TONKO

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February 20, 2020

The Honorable Mark Esper
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington DC, 20301

Dear Secretary Esper:

I write to request information related to the transportation, storage, and disposal of materials containing per- and polyfluoroalkyl substances (PFAS) and/or aqueous film-forming foam (AFFF) generated by the Department by Norlite, LLC at a facility located at 628 Saratoga Street, Cohoes, New York.

My office is working to obtain additional information on any existing contracts between the Department and Norlite in order to assess potential risks to the surrounding community.

As you know, Congress has taken action to protect the public from uncontrolled release of PFAS into the environment. The National Defense Authorization Act (NDAA) for Fiscal Year 2020 (FY20), which was enacted on December 20, 2019, included new requirements to prohibit the unsafe disposal of materials containing PFAS and AFFF generated by the Department.

Sec. 330 of the FY20 NDAA includes the following requirements:

- (1) all incineration is conducted at a temperature range adequate to break down PFAS chemicals while also ensuring the maximum degree of reduction in emission of PFAS, including elimination of such emissions where achievable;
- (2) all incineration is conducted in accordance with the requirements of the Clean Air Act (42 USC 7401 et seq.), including controlling hydrogen fluoride;
- (3) any materials containing PFAS that are designated for disposal are stored in accordance with the requirement under part 264 of title 40, Code of Federal Regulations; and
- (4) all incineration is conducted at a facility that has been permitted to receive waste regulated under subtitle C of the Solid Waste Disposal Act (42 USC 6921 et seq.).

In order to better understand how the Department is achieving these new requirements, I request answers to the following questions by no later than March 6, 2020.

Contractual Arrangements between DOD and Norlite

1. When did the U.S. Department of Defense or a military department enter into contract(s) with Norlite, or its parent company, Tradebe USA, related to the disposal of materials containing PFAS and/or AFFF generated by the Department?
2. Did any such contract specify that the incineration of materials containing PFAS and/or AFFF would be conducted at Norlite's facility located at 628 Saratoga Street, Cohoes, New York?
3. If any such contracts were finalized prior to the date of enactment of the FY20 NDAA, what actions has the Department taken to reassess activities under the contract to ensure compliance with Sec. 330 of the FY20 NDAA?
4. If any such contracts were finalized following the date of enactment of the FY2020 NDAA, what actions has the Department take to ensure compliance with Sec. 330 of the FY20 NDAA?

Transportation of PFAS and AFFF

5. What entity is responsible for transporting materials containing PFAS and/or AFFF to Norlite's facility located at 628 Saratoga Street, Cohoes, New York?
6. What is the volume of materials containing PFAS and/or AFFF that has been transported to Norlite's facility located at 628 Saratoga Street, Cohoes, New York since the beginning of the contract(s)?
7. Does the contract include any limitations on the amount of materials to be transported to Norlite's facility located at 628 Saratoga Street, Cohoes, New York?

Storage and Disposal of PFAS and AFFF

8. What actions has the Department taken to verify the conditions in which materials containing PFAS and/or AFFF are being stored and destroyed at Norlite's facility located at 628 Saratoga Street, Cohoes, New York?
9. Has the Department verified that all incineration of materials containing PFAS and/or AFFF has been conducted in accordance with the requirements of the Clean Air Act?
10. Has the Department verified the temperature range during incineration of materials containing PFAS and/or AFFF at the facility?
11. Is the Department aware of any actions that are being taken to control hydrogen fluoride (HF) gas and PFAS emissions not destroyed during the incineration process at the facility?
12. Is the Department aware of the results of any air monitoring that has occurred for HF and PFAS during the destruction of materials containing PFAS and/or AFFF at the facility?
13. It is my understanding that certain facilities with scrubbers and other emission control devices, regulated under RCRA, are capable of destruction of 99.99% or greater. Has the Department verified the emissions of PFAS from the facility and assessed whether the

facility has achieved the maximum degree of reduction?

I hope the safe disposal of materials containing PFAS and AFFF generated by the Department, in accordance with all applicable laws and requirements, is a priority we share.

I look forward to working with you to ensure communities near disposal facilities and their representatives properly understand any health or environmental risks that may be associated with the disposal process.

Sincerely,



Paul D. Tonko
Member of Congress