

# CERTALERT

ADVISORY CAUTIONARY NON-DIRECTIVE

## AIRPORT SAFETY AND OPERATIONS DIVISION AAS-300

FOR INFORMATION, CONTACT MARC TONNAKLIFF, AAS-300 (202) 267-8732

Email: [Marc.Tonnacliff@faa.gov](mailto:Marc.Tonnacliff@faa.gov)

DATE: 09/30/09 No. 09-16  
TO: Airport Operators, FAA Airport Certification Safety Inspectors  
TOPIC: Aqueous Film Forming Foam (AFFF) Product Recall

**PURPOSE:** The purpose of this CERTALERT is to draw attention to a product recall.

### BACKGROUND

#### **U.S. District Court Grants Chemguard Injunction with Respect to U.S. Foam Technologies' Use of Chemguard's UL Identifier**

**Mansfield, Texas, September 29, 2009** - United States District Court Judge Reid O'Connor of the Northern District of Texas entered an Order this week in Case 3:09-cv-01155-O in favor of Plaintiff Chemguard granting Chemguard's request for an injunction with respect to U.S. Foam Technologies' (USF or US Foam) use of Chemguard's UL identifier. The Court directed USF to "Identify and issue a general recall to all customers specifically identifying what product(s) may have been mislabeled as Chemguard product(s), directing them to avoid using mislabeled product, and to return that product to USF." **U.S. Foam must also place a notice in an industry wide publication to further inform customers as to how those products can be identified and provide instructions on the return of the product.**

Roger Bower, President of Chemguard, stated, "Chemguard is pleased that the Court has taken action with regard to US Foam's admitted misuse of Chemguard's UL identifier and looks forward to the correction of this problem with product on which firefighters across the country rely upon." Mr. Bower went on to state, "Chemguard's allegations regarding US Foam's misrepresentations concerning US Foam's 'First Strike A/B' and 'Military Spec Approved' products remain pending before the Court. Chemguard is confident that the Court will ultimately make the correct determination concerning these allegations and find it appropriate to remove them from the marketplace."

In issuing his ruling, Judge Connor noted that "many consumers require [UL certification] as part of their bid specifications." Judge Connor noted that Chemguard learned on May 14, 2009, that US Foam was selling firefighting foam using Chemguard's UL identifier. He observed that "Both Chemguard and USF agree this was improper." He also noted that Chemguard purchased UL and military specification foam from USF and "According to Chemguard, USF's military specification foam did not perform as required by military specifications. . . . Other foam Chemguard purchased from USF revealed, according to Chemguard tests, that it did not perform according to UL or other relevant standards."

In issuing his ruling, Judge Connor stated: "USF admits it has falsely designated USF products with Chemguard's labels. After considering US Foam's arguments, the Court concluded: "The Court is persuaded that USF's use of Chemguard labels have either actually deceived and confused potential customers, and a presumption exists that it has done so. Therefore, Chemguard has established a likelihood of success on the merits of its substantive claim based on USF's false use of Chemguard's labels."

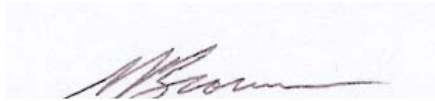
Mr. Bower further stated, "Chemguard is concerned with the safety of the public and the firefighters that protect them. Our company does not want to be associated in any way with product that does not perform in accordance with industry standards and which is relied upon by firefighters to protect the public from tanker, aircraft, and other serious fires. We felt a responsibility to bring our findings to the attention of the proper authorities to enable them to make an informed judgment of what action is appropriate to protect the public and to keep Chemguard's reputation from being potentially blemished by the wrongdoing of another company."

*Chemguard is a global, full-service, ISO 9001:2000 Certified manufacturer of fire suppression foams, equipment, and systems; specialty pumps; and fluorosurfactant specialty chemicals. Known for advanced R&D, engineering/design expertise, quality manufacturing, and high-quality, field-tested products, Chemguard provides unmatched customer support.*

For more information contact:

**Chemguard**  
204 South Sixth Avenue  
Mansfield, TX 76063  
USA  
1.817.473.9964

1.800.222.3710 (U.S. & Caribbean)  
Fax 1.817.473.0606  
[info@chemguard.com](mailto:info@chemguard.com)



---

Michael W. Brown, Manager  
Airport Safety and Operations Division AAS-300

9/30/09  
DATE

DISTRIBUTION

CERTALERT DISTRIBUTION LIST