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MEMORANDUM

To: Senate Committee on Health and Welfare
From: Matt Chapman, Director, Waste Management and Prevention, Department of Environmental Conservation
Date: April 4, 2025
Re: ANR Comments on H. 238

Thank you for the opportunity to testify today. The Agency of Natural Resources (ANR) continues to support the approach recommended in the [Act 131 report](#) and [draft legislation](#). This approach would have taken a comprehensive approach to regulating PFAS in consumer products in a manner that ANR, AAFM, Health, and the AGO believed was feasible and would have a meaningful reduction in the concentration of PFAS in the environment.

Addressing PFAS in consumer products is one of the most important actions that we can take to address PFAS. Treating PFAS in drinking water, wastewater treatment facilities, or landfills are expensive and places the costs on ratepayers as opposed to the people who can reduce PFAS in products. This action is a high priority in the [State PFAS Roadmap](#) and if there is a greater interest in where we are at, you can review the [presentation](#) that was given to the House Committee on Environment earlier this year.

In addition, we support the approach taken by the House Environment Committee in H. 238 with three changes – 1) we oppose the currently unavoidable use waiver for the reasons discussed below; and 2) we support the changes recommended by the Attorney General with respect to the definition of intentionally added water.

Fluorine Treated Containers.

Fluorine treated containers are typically plastic containers that have been treated inside the container with fluorine to make the container more stable. The primary concern with fluorine treated containers is that the treatment results in a PFAS that contaminates the contents of the container which results in human and environmental exposures. Fluorine treated containers are often used to contain chemical inputs to consumer products including solvents, oxidizers, and other chemical and natural inputs. There are alternatives to most/all fluorine treated containers. These alternatives may be at higher prices. Federal regulations do not require the use of fluorine treated containers in transportation.

Maine has prohibited the use of fluorine treated containers when a product is subject to a PFAS phase out, similar to the approach taken in H. 238. The European Union phases out PFAS in products broadly in 2030. Minnesota phases out PFAS in products

broadly in 2032. ANR believes that both these broad phase outs would prohibit fluorine treated containers.

Currently Unavoidable Use

ANR strongly opposes the addition of a currently unavoidable use waiver for fluorine treated containers for the following reasons:

- ANR does not believe that it is necessary. There are alternatives to most/all fluorine treated containers today and there have not been any examples provided by the regulated industry of fluorine treated containers being necessary for a product. Further, the European Union ban in 2030 should ensure that there is an adequate market for alternative containers.
- No State Agency has the capacity to conduct this review. Conducting the type of unavoidable use analysis is highly technical and intensive. Currently, neither ANR nor Health have the staff, budget, or other program needs to conduct such a review. H. 238 does not provide any of the resources necessary for such a review and would require a significant investment to conduct this well.
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