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TO: Sen. Ginny Lyons, Chair, Senate Committee on Health and Welfare

FROM: Todd Daloz, Assistant Attorney General, Director of Policy & Legislative Affairs

DATE: April 3, 2025

RE: Follow-up Written Testimony PFAS Consumer Products – H.238

I am following up on the Attorney General's testimony on H.238 in Committee on Tuesday, April 1, 2025. As discussed, the Attorney General's Office has two recommended changes to the draft bill based on the issues raised during testimony.

- In the proposed definition of "Intentionally added" (9 V.S.A § 2494e(10); H.238 page 3, lines 4-11), we recommend:
 - *Delete:* "PFAS shall not be considered intentionally added if the chemical is present in the product due to use of water containing PFAS and the manufacturer took no action that resulted in the PFAS being present in the water."
 - *Replace with:* "PFAS shall not be considered intentionally added on the basis of water used in the manufacture of the product if the water used in the manufacture of the product was from: (A) a public water system permitted pursuant to 10 V.S.A. chapter 56; or (B) a water source that does not violate the maximum contaminant levels for PFAS established in the rules adopted under 10 V.S.A chapter 56."

Proposed Change to H.238 (as passed by House):

(7)(10) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the ~~product component~~ manufacturing of a product or in the final product and results in PFAS in the final product. The addition of PFAS must be known or reasonably ascertainable by the manufacturer. PFAS shall not be considered intentionally added if the chemical is present in the product due to use of water containing PFAS and the manufacturer took no action that resulted in the PFAS being present in the water on the basis of water used in the manufacture of the product if the water used in the manufacture of the product was from: (A) a public water system permitted pursuant to 10 V.S.A. chapter 56; or (B) a water source that does not violate

the maximum contaminant levels for PFAS established in the rules adopted under 10 V.S.A chapter 56.

- Regarding “currently unavoidable use” determinations for fluorine-treated containers (9 V.S.A § 2494g(d); H.238 page 11, lines 4-12), we recommend:
 - The Committee assess whether such an exemption is desirable at all, seeking testimony from entities like the Agency of Natural Resources on this issue.
 - If the Committee determines a compliance mechanism is desired for fluorine-treated containers, rather than an exemption, the AGO would suggest extending the compliance date a few years beyond the current July 1, 2027 effective date.