

February 21, 2020

The Honorable John Persell, Chair
House Environment and Natural Resources Policy Committee
Minnesota House of Representatives
503 Rev. Dr. Martin Luther King Jr. Blvd.
St Paul, MN 55155

RE: HF 3181 (Claflin) Nonwoven disposable product labeling provided – OPPOSED position

Dear Chair Persell and Committee Members:

On behalf of producers of flushable wipes, INDA, Association of the Nonwoven Fabrics Industry, respectfully opposes HF3181 (Claflin) Nonwoven disposable product labeling.

INDA is a trade association whose member companies include almost all wipes fabric makers, wipes manufacturers, and some brand owners operating in North America. Our members are committed to the design and marketing of wipes products to meet the expectations of consumers while minimizing post-consumer impacts on municipal wastewater infrastructure and the environment. To that end, the persistent problem of wastewater system clogs warrants a solution based on thoughtful consideration of data from municipal forensic collection studies and what drives consumer disposal behavior rather than government regulation of a product based on anecdotal input.

HF3181 is an ineffective approach to the problem of wipes in system clogs for the following reasons:

- 1) Imposing a performance standard on flushable wipes is an unfounded approach to addressing wastewater system clogs, considering that all municipal forensic studies to date of clogs and accumulations in treatment systems reveal that the primary problem in in wastewater systems is flushing of wipes and other items NOT labeled flushable.
- 2) The flushability performance standard in the bill is unclear, referring to "tests for flushability" in a 2014 Federal Trade Commission order that contains no tests. Alternatively, the bill refers to INDA's Flushability Guidelines "that has been approved by the MPCA."
- 3) The bill's labeling provisions for wipes that are non-flushable are similarly unclear as they refer to INDA's labeling code of practice "that has been approved by MPCA." Further, the bill language provides a narrower definition of covered products than defined in INDA's Code of Practice, which may have the perverse impact of covering fewer categories of wipes not labeled "flushable" that warrant the "Do Not Flush" symbol.

Municipal studies of clogs/accumulations indicate flushing of wipes NOT labeled flushable as the primary problem.

Over the last four years, municipal wastewater agencies in the United States and United Kingdom have conducted forensic collection studies either jointly with industry or independently to formally analyze the contents of clogs or accumulations in pumps or treatment plant inlet screens.

2016 New York City Study (Official report attached for the Committee's information)

- Commissioned by NYC Department of Environmental Protection and Department of Law; Collected and analyzed materials from Ward Island Treatment Plant inlet screens servicing Bronx and Manhattan;
- Found 98 percent of materials collected and identified to be items NOT labeled "flushable." Largest category of material collected and identified was baby wipes (38 percent).

2017 Water United Kingdom Study (Official report attached)

- Conducted by the wastewater association Water UK, various local system operators and UK wipes industry representatives;
- Collected and analyzed over 50 clogs in pumps, sewer blockages, and wastewater treatment inlet samples at various locations over more than two months;
- Found 98 percent of materials collected and identified to be items NOT labeled "flushable." Largest categories were baby wipes, surface/sanitizing wipes, and feminine hygiene products.

2019 Jacksonville (FL) Study (Official report attached)

- Collaboration between the Jacksonville Electric Authority (JEA) wastewater system and INDA member Kimberly-Clark Corporation;
- Collected and analyzed materials from bar screen samples at JEA's largest pumping station over a two-day period;
- Found more than 99 percent of the materials were items not labeled "flushable." Leading categories were baby wipes (37 percent), feminine hygiene products (19 percent), household hard surface cleaning wipes (15 percent) and paper products such as hand towels (28 percent).

The only forensic collection studies conducted in Minnesota to our knowledge, were in conjunction with a lawsuit filed by several Minnesota and Wisconsin wastewater agencies and ultimately identified similarly small amounts of wipes labeled "flushable." The eight plaintiff municipalities in the City of Wyoming case conducted several sewer collection studies to collect and examine materials from clogs and maintenance over nearly 12 months. Of the 94 collections of material analyzed, 44 contained no flushable wipes whatsoever. Of the remaining 50 collections, wipes labeled "flushable" constituted a mere 1.28% by weight averaged across all materials. The plaintiff municipalities in that suit eventually dropped all claims for damages.

Accordingly, unless other Minnesota municipal wastewater agencies have conducted similar formal forensic studies indicating flushable wipes are a substantial problem, HF3181's flushability standard is unnecessary.

Government mandates for flushability are unnecessary because the INDA Flushability Guidelines are already working to protect municipal wastewater systems.

INDA and its UK-European counterpart EDANA have long-established guidelines used by wipes manufacturers to assess product flushability. Currently in their 4th Edition, the Guidelines (attached) reflect a continued evolution and responsiveness to new data in the wastewater field and in product

research and development. In order for a product to be labeled “flushable,” it has to pass 7 different tests that assess compatibility with plumbing and wastewater infrastructure as follows:

- 1) Toilet and drain-line clearance test
- 2) Slosh box disintegration test
- 3) Household pump test
- 4) Settling test
- 5) Aerobic biodegradation/biodegradation test
- 6) Anaerobic biodegradation/biodegradation test
- 7) Municipal sewage pump test

INDA’s Guidelines Edition 4 were released in May of 2018 and represent a strengthened set of tests reflective of feedback received from wastewater officials as well as the evolution of wipes technology. The forensic study data outlined above is not the only indicator that the industry Guidelines are working.

Wastewater professionals in several countries have in recent years adopted standards for flushability that either endorse the Guidelines Edition 4 in total or in large part. Spain recently released its own national standards, Spanish Standard PNE/UNE 149002, which is modeled off of the INDA/EDANA guidelines. Belgium’s standard is also based on the INDA/EDANA guidelines and Germany is nearing completion of a published standard based on our test methods and pass/fail criteria. The Netherlands, while not formally publishing, has expressed support for the Edition 4 levels of protection.

In order to pass the Guidelines, flushable wipes use exclusively tree-based fibers – and not plastic – that begin to disintegrate upon flushing. Wipes containing plastic fibers or other long fibers with greater wet strength than flushable wipes accordingly do not pass the INDA Guidelines and therefore under the Code of Practice must be labeled “Do Not Flush.”

Prominent “Do Not Flush” labeling of baby wipes, hard surface cleaning/sanitizing wipes and other non-flushable wipes and consumer education would address the documented problem.

HF3181 would be better able to address the clog problem documented by forensic studies if it simply codified the INDA Code of Practice for labeling wipes not designed and labeled flushable as “Do Not Flush.” The Code of Practice has detailed specifications for such labeling including: 1) a language neutral approach that calls for the use of a widely recognized Do Not Flush symbol; 2) sizing requirements for the symbol corresponding to various packaging sizes; and 3) guidance on the contrast and prominent placement of the Do Not Flush symbol based on specific packaging formats (e.g., boxes, dispensing tubs, canisters or soft packs). While most producers of baby wipes, hard surface cleaning/sanitizing wipes and other non-flushable wipes follow the INDA Code, some use disposal labeling that falls short of mark. Codifying the INDA Code of Practice would address that issue.

It should be noted that Do Not Flush labeling alone may not suffice when it comes to some wipes users that frequently flush non-flushable wipes, making consumer education critical to driving proper disposal habits. However, despite the best of intentions, typical what-to-flush messaging by

wastewater agencies or building owners – such as “Flush Only Pee, Poo and Paper” or “Don’t Flush Any Wipes” – has been running for over a decade in some localities, but has had little impact on preventing non-flushable items from being flushed. Given that approximately 20 percent of U.S. households purchase flushable wipes, many Minnesotans have established toileting regimens involving flushable wipes. “No wipes” messaging leaves them effectively with only one or two options: either giving up flushable wipes entirely or discarding them after wiping in the trash. For most consumers, adult feces belong nowhere but the toilet, so the latter is not a realistic option.

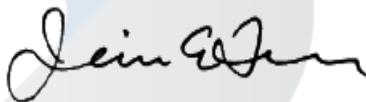
Tailoring what-not-to-flush campaigns to address only items documented to be a problem has been successful for some wastewater systems. Portland (ME) Water District’s “Don’t Flush Baby Wipes” campaign is a good example of putting collection study data to work through a targeted campaign – the end result being a 40% reduction in the volumes of baby wipes in the relevant treatment plant compared to the volumes preceding the campaign. This campaign received an Environmental Merit Award from the U.S. Environmental Protection Agency. A copy of the campaign (and forensic study) report is attached for the Committee’s information.

INDA and its member companies take seriously the challenges Minnesota wastewater agencies are facing as well as our responsibility to be mindful of the post-consumer fate of our products. In the interest of putting science and data to work on the persistent problem of system clogs, we urge the Committee to help focus the state’s energies on a collaborative approach with the wipes industry to address the incorrect disposal of wipes demonstrated to clog or accumulate in systems – not to impose flushability standards based solely on anecdotal observations.

Industry would welcome the opportunity to work with your wastewater constituents on improving “Do Not Flush” labeling of wipes not labeled “flushable” and a strategic consumer education approach that focuses on flushing of baby wipes, surface and sanitizing wipes and other items proven to be causing problems for municipal wastewater agencies. If wastewater agencies believe forensic study data may look different in the state of Minnesota, INDA would be pleased to lend itself to a joint effort that marries agencies’ understanding of local system hotspots and operations with our expertise on materials/product identification.

For these reasons, we are respectfully opposed to HF3181 as written. If you have any questions about our position, please do not hesitate to call. It would be a pleasure to speak with you.

Sincerely,



Jessica Franken, INDA
Director of Government Affairs