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April 7, 2016

Representative Denny McNamara

365 State Office Building

100 Rev. Dr. Martin Luther King Jr. Blvd.

St. Paul, MN 55155

Sent via email to rep.denny.mcnamara@house.mn

Re: HF 2842, Labeling of Nonwoven Disposable Products

Dear Representative McNamara:

The National Association of Clean Water Agencies (NACWA) appreciates your introduction of House File (HF) 2842, which would require that flushable wipes be safe for sewer systems and that non-flushable wipes be clearly labeled as “do not flush.” NACWA and its nearly 300 public wastewater treatment utility members across the United States are concerned about the expensive problems caused by wipes for utilities, as well as the environmental impacts of these wipes. NACWA, the Water Environment Federation (WEF), and the American Public Works Association (APWA) have been working with INDA (the trade association of the nonwoven fabrics industry) for several years to improve the wipe industry’s voluntary flushability guidelines and labeling Code of Practice (COP).

NACWA supports your efforts to allow the term “flushable” to be used for a wipe only if strict flushability standards are met, to ensure that the wipe will not harm sewer systems or wastewater treatment plants. NACWA, WEF, APWA, and INDA, along with the Canadian Water & Wastewater Association (CWWA) and the Water Services Association of Australia (WSAA), are currently working on a 4th Edition flushability guidelines (“GD4”), which would be a consensus between the wastewater associations and INDA. GD4 should be completed later this year, if an agreement can be reached between the associations. NACWA recommends that HF 2842 include language that will only allow a wipe to be labeled “flushable” if it meets standards agreed to by the U.S. associations representing the wastewater sector (NACWA, WEF, and APWA), such as GD4.

INDA’s 3rd Edition *Guidelines for Assessing the Flushability of Disposable Nonwoven Products* (“GD3”) would not meet this requirement. GD3 was published in 2013 without

considering input from wastewater utility professionals, despite NACWA communicating its concerns with INDA prior to publication. The tests in GD3 do not replicate the conditions found in most sewer systems and are therefore not an accurate predictor of whether a wipe is safe to flush. The turbulence in the water allowed by the “slosh box” test in GD3 is much greater than what a wipe would experience in a typical sewer system, and the time allowed for a wipe to break apart is too long. In addition, the criteria for passing the GD3 municipal pump test is not strict enough to ensure that clogging and other operational problems are not experienced by the pumps found in a sewer system. Despite the lax GD3 criteria for flushability, widespread adoption of GD3 by wipes manufacturers has still not occurred. This illustrates the need for legislation, such as HF 2842, to mandate these flushability requirements.

The voluntary labeling COP that was published concurrently with GD3 is also inadequate. While an effective “do not flush” logo was developed by INDA, its use is also not widespread on baby wipes, cleaning wipes, and other wipes that are not designed to be flushed. The COP allows the “do not flush” logo to be too small and to be placed on the back of wipes packages, where the consumer has little chance to see it. In some cases, the DNF logo is placed **under** the thermoseal flap of the wipe package, where it is almost completely hidden to the consumer. NACWA therefore recommends that HF 2842 specify that any wipe product that does not meet these standards carry the “do not flush” logo on the package, along with the words “do not flush,” in a location (or locations) that will be seen by the consumer when the product is purchased and each time the product is used. INDA and the wastewater associations are working on a new labeling COP that should be completed later this year.

The current version of the companion bill in the Senate, SF 2525, contains the following definition in Section 1:

(3) "flushable, septic safe, or sewer safe" means a nonwoven disposable product that meets the tests for flushability established by the Federal Trade Commission in Docket No. C-4556 for non-misleading representations regarding the flushability of nonwoven disposable products, or that complies with the most recent INDA (Association of the Nonwoven Fabrics Industry) code of practice for product labeling that has been approved by the Pollution Control Agency;

This definition is problematic for three reasons:

1. The Federal Trade Commission (FTC) did not establish tests for flushability in Docket No. C-4556. This consent order contains useful guidelines for evaluating whether or not a product can be considered flushable, but the FTC did not specify any tests for determining flushability.
2. This definition mixes flushability and labeling, since the INDA code of practice deals only with appropriate labeling of non-flushable products. In the definition above, the words “code of practice” should be replaced with “flushability guidelines.”
3. The “most recent” INDA flushability guidelines should not include GD3, since GD3 is not protective of sewer systems, as described above.

NACWA Comments on HF 2842

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Please contact me at 202-533-1836 or cfinley@nacwa.org if you have any questions regarding NACWA's support of HF 2842 or the criteria that should be used for labeling or determining flushability.

Sincerely,

A handwritten signature in black ink that reads "Cynthia A. Finley". The signature is written in a cursive style with a large initial "C" and a long, sweeping underline.

Cynthia A. Finley, Ph.D.
Director, Regulatory Affairs

Cc: Greta Gauthier, Minnesota Pollution Control Agency