

AMENDMENT TO RULES COMMITTEE

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OFFERED BY MR. LOWENTHAL OF CALIFORNIA

Page 1549, after line 8, insert the following:

1 **SEC. 12022. “DO NOT FLUSH” LABELING.**

2 (a) IN GENERAL.—Not later than 2 years after the
3 date of the enactment of this section, the Administrator
4 of the Environmental Protection Agency, in consultation
5 with the Federal Trade Commission, shall issue regula-
6 tions requiring covered entities to label covered products
7 clearly and conspicuously with “Do Not Flush” label no-
8 tices and symbols in accordance with this section.

9 (b) REQUIREMENTS.—

10 (1) CYLINDRICAL PACKAGING.—In issuing reg-
11 ulations under subsection (a), the Administrator
12 shall require a covered product sold in cylindrical or
13 near-cylindrical packaging, and intended to dispense
14 individual wipes, to have—

15 (A) the symbol and label notice on the
16 principal display panel in a location reasonably
17 visible to the user each time a wipe is dis-
18 pensed; or

1 (B) the symbol on the principal display
2 panel and the label notice, or a combination of
3 the label notice and symbol, on a flip lid in a
4 manner that covers at least 8 percent of the
5 surface area of the flip lid.

6 (2) FLEXIBLE FILM PACKAGING.—In issuing
7 regulations under subsection (a), the Administrator
8 shall require a covered product sold in flexible film
9 packaging, and intended to dispense individual
10 wipes, to have—

11 (A) the symbol on the principal display
12 panel and, if the principal display panel is not
13 on the dispensing side of the packaging, on the
14 dispensing side panel; and

15 (B) the label notice on either the principal
16 display panel or the dispensing side panel, in a
17 prominent location reasonably visible to the
18 user each time a wipe is dispensed.

19 (3) RIGID PACKAGING.—In issuing regulations
20 under subsection (a), the Administrator shall require
21 a covered product sold in a refillable tub or other
22 rigid packaging that may be reused by a customer,
23 and intended to dispense individual wipes, to have
24 the symbol and label notice on the principal display

1 panel in a prominent location reasonably visible to
2 the user each time a wipe is dispensed.

3 (4) PACKAGING NOT INTENDED TO DISPENSE
4 INDIVIDUAL WIPES.—In issuing regulations under
5 subsection (a), the Administrator shall require a cov-
6 ered product sold in packaging that is not intended
7 to dispense individual wipes to have the symbol and
8 label notice on the principal display panel in a
9 prominent location reasonably visible to the user of
10 the covered product.

11 (5) BULK PACKAGING.—

12 (A) IN GENERAL.—In issuing regulations
13 under subsection (a), the Administrator shall
14 require a covered product sold in bulk at retail
15 to have labeling in compliance with such regula-
16 tions on both the outer packaging visible at re-
17 tail and the individual packaging contained
18 within the outer packaging.

19 (B) EXEMPTION.—The Administrator shall
20 exempt from the requirements under subpara-
21 graph (A) the following:

22 (i) Individually packaged covered
23 products that are contained within outer
24 packaging, are not intended to dispense in-
25 dividual wipes, and have no retail labeling.

1 (ii) Outer packaging that does not ob-
2 scure the symbol and label notice on indi-
3 vidually packaged covered products con-
4 tained within.

5 (6) PACKAGING OF COMBINED PRODUCTS.—

6 (A) OUTER PACKAGING.—In issuing regu-
7 lations under subsection (a), the Administrator
8 shall exempt the outer packaging of a combined
9 product from the requirements of such regula-
10 tions.

11 (B) PACKAGES LESS THAN 3 BY 3
12 INCHES.—In issuing regulations under sub-
13 section (a), the Administrator shall provide
14 that, with respect to a covered product in pack-
15 aging smaller than 3 inches by 3 inches (such
16 as an individually packaged wipe in tear-top
17 packaging) and sold as part of a combined
18 product, if a symbol and label notice are placed
19 in a prominent location reasonably visible to the
20 user of the covered product, such covered prod-
21 uct is considered to be labeled clearly and con-
22 spicuously in accordance with such regulations.

23 (c) REASONABLE VISIBILITY OF SYMBOL AND LABEL
24 NOTICE.—

1 (1) IN GENERAL.—In requiring the symbol and
2 label notice under this section, the Administrator
3 shall require that—

4 (A) packaging seams or folds or other
5 packaging design elements do not obscure the
6 symbol or label notice;

7 (B) the symbol and label notice are each
8 equal in size to at least 2 percent of the surface
9 area of the principal display panel; and

10 (C) the symbol and label notice have high
11 contrast with the immediate background of the
12 packaging so that such symbol and label notice
13 may be seen and read by an ordinary individual
14 under customary conditions of purchase and
15 use.

16 (2) PROXIMITY OF SYMBOL AND LABEL NO-
17 TICE.—In requiring the symbol and label notice
18 under this section, the Administrator may allow a
19 symbol and label notice on a principal display panel
20 to be placed adjacently or on separate areas of the
21 principal display panel.

22 (3) EXCEPTION.—Paragraph (1)(C) does not
23 apply to an embossed symbol or label notice on the
24 flip lid of a covered product sold in cylindrical or
25 near-cylindrical packaging.

1 (d) ADDITIONAL WORDS OR PHRASES.—In issuing
2 regulations under subsection (a), the Administrator shall
3 allow additional words or phrases on a covered product
4 that describe consequences associated with flushing or dis-
5 posing of such covered product, if such words or phrases
6 are consistent with the purposes of this section.

7 (e) REPRESENTATIONS OF FLUSHABILITY.—In
8 issuing regulations under subsection (a), the Adminis-
9 trator shall prohibit, with respect to a covered product,
10 the representation or marketing of flushable attributes,
11 performance, or efficacy benefits.

12 (f) COMPLIANCE WITH OTHER REQUIREMENTS.—

13 (1) FIFRA REQUIREMENTS.—In issuing regu-
14 lations under subsection (a), the Administrator shall
15 include, with respect to a covered product that con-
16 tains a pesticide required to be registered under the
17 Federal Insecticide, Fungicide, and Rodenticide Act
18 (7 U.S.C. 136 et seq.), the following:

19 (A) Instructions describing how such a
20 covered product may comply with the require-
21 ments of such Act and the regulations issued
22 under subsection (a).

23 (B) A requirement that, not later than 90
24 days after the date on which regulations are
25 issued under subsection (a), a covered entity

1 shall submit for approval by the Administrator
2 a product label compliant with such instruc-
3 tions.

4 (2) TYPE SIZE EXCEPTION.—If the label notice
5 type size otherwise required by the regulations
6 issued under subsection (a) for a covered product
7 would conflict with a labeling requirement under the
8 Federal Insecticide, Fungicide, and Rodenticide Act
9 (7 U.S.C. 136 et seq.) or the Federal Hazardous
10 Substances Act (15 U.S.C. 1261 et seq.), the Ad-
11 ministrator may, in issuing such regulations, provide
12 for a label notice type size requirement for the cov-
13 ered product under this section that—

14 (A) in the case of a covered product re-
15 quired to display a warning pursuant to the
16 Federal Insecticide, Fungicide, and Rodenticide
17 Act regarding a pesticide in such covered prod-
18 uct, requires a type size for the label notice
19 under this paragraph that is equal to or greater
20 than the type size required for the “keep out of
21 reach of children” statement under such Act;
22 and

23 (B) in the case of a covered product re-
24 quired to contain first aid instructions pursuant
25 to the Federal Hazardous Substances Act, re-

1 quires a type size for the label notice under this
2 paragraph that is equal to or greater than the
3 type size required for such first aid instruc-
4 tions.

5 (g) **APPLICABILITY.**—The Administrator shall pro-
6 vide that the regulations issued under subsection (a) apply
7 with respect to covered products manufactured on or after
8 the date that is 90 days after the date on which such regu-
9 lations are issued.

10 (h) **PENALTY.**—The Administrator may impose fines
11 for purposes of enforcing the regulations issued under sub-
12 section (a) in accordance with the following:

13 (1) A fine of not more than \$2,500 for each
14 day that a violation occurs.

15 (2) In no event may the total amount of fines
16 imposed for a single violation exceed \$100,000.

17 (i) **PUBLIC OUTREACH CAMPAIGN.**—

18 (1) **IN GENERAL.**—Not later than the date that
19 is 6 months after the date on which regulations are
20 issued under subsection (a), the Administrator shall
21 provide guidance for covered entities to conduct pub-
22 lic outreach campaigns, individually or as a part of
23 a group of covered entities, to educate consumers
24 with respect to the label notice.

1 (2) CAMPAIGN OBJECTIVES.—A public outreach
2 campaign shall provide consumers with information
3 on the following:

4 (A) The presence of the label notice on
5 covered products.

6 (B) Covered products that carry the label
7 notice.

8 (C) The intended effects of the label notice
9 on consumer behavior with respect to the dis-
10 posal of covered products.

11 (D) The adverse impacts that covered
12 products have on sewer and wastewater infra-
13 structure when improperly disposed of.

14 (3) MATERIALS.—Informational materials and
15 consumer communications associated with a public
16 outreach campaign shall be limited to information
17 relating to covered products.

18 (4) LIMITATION.—A public outreach campaign
19 may not promote, advocate, or depict wipes other
20 than covered products as covered products.

21 (5) TIMELINE; REPORTS.—In carrying out
22 paragraph (1), the Administrator shall include guid-
23 ance providing for covered entities conducting public
24 outreach campaigns—

1 (A) to carry out the public outreach cam-
2 paign for a period of at least 5 years beginning
3 on the date on which such guidance is made
4 available; and

5 (B) to submit reports to the Administrator
6 biannually detailing the efficacy of the public
7 outreach campaign with respect to consumer
8 behavior.

9 (6) PUBLIC AVAILABILITY OF REPORTS.—The
10 Administrator shall make each report submitted
11 under paragraph (5)(B) publicly available on a
12 website of the Environmental Protection Agency.

13 (j) DEFINITIONS.—In this section:

14 (1) COMBINED PRODUCT.—The term “com-
15 bined product” means two or more products sold in
16 shared retail packaging, of which—

17 (A) at least one of the products is a cov-
18 ered product; and

19 (B) at least one of the products is another
20 consumer product intended to be used in com-
21 bination with such covered product.

22 (2) COVERED ENTITY.—The term “covered en-
23 tity” means a manufacturer, wholesaler, supplier, or
24 retailer that is responsible for the labeling or retail

1 packaging of a covered product that is sold or of-
2 fered for sale in the United States.

3 (3) COVERED PRODUCT.—

4 (A) IN GENERAL.—The term “covered
5 product” means a premoistened, nonwoven dis-
6 posable wipe sold or offered for sale—

7 (i) that is marketed as a baby wipe or
8 diapering wipe; or

9 (ii) that—

10 (I) is composed entirely, or in
11 part, of petrochemical-derived fibers;
12 and

13 (II) has significant potential to
14 be flushed.

15 (B) INCLUSIONS.—The term “covered
16 product” includes—

17 (i) antibacterial wipes and disinfecting
18 wipes;

19 (ii) wipes intended for general purpose
20 cleaning or bathroom cleaning, including
21 toilet cleaning and hard surface cleaning;
22 and

23 (iii) wipes intended for personal care
24 use on the body, including hand sanitizing,
25 makeup removal, feminine hygiene, adult

1 hygiene (including incontinence hygiene),
2 and body cleansing.

3 (4) HIGH CONTRAST.—The term “high con-
4 trast” means, with respect to the symbol or label no-
5 tice, that such symbol or label notice—

6 (A) is either light on a solid dark back-
7 ground or dark on a solid light background; and

8 (B) has a contrast percentage of at least
9 70 percent between such symbol or label notice
10 and the background, using the formula $(B1 -$
11 $B2) / B1 * 100 =$ contrast percentage, where
12 B1 is the light reflectance value of the lighter
13 area and B2 is the light reflectance value of the
14 darker area.

15 (5) LABEL NOTICE.—The term “label notice”
16 means the written phrase “Do Not Flush”.

17 (6) PRINCIPAL DISPLAY PANEL.—The term
18 “principal display panel” means the side of a prod-
19 uct package that is most likely to be displayed, pre-
20 sented, or shown under customary conditions of dis-
21 play for retail sale, and—

22 (A) in the case of a cylindrical or near-cy-
23 lindrical package, the surface area of which
24 constitutes at least 40 percent of the product

1 package, as measured by multiplying the height
2 by the circumference of the package; or

3 (B) in the case of a flexible film package
4 in which a rectangular prism or near-rectan-
5 gular prism stack of wipes is housed within the
6 film, the surface area of which is measured by
7 multiplying the length by the width of the side
8 of the package when the flexible packaging film
9 is pressed flat against the stack of wipes on all
10 sides of the stack.

11 (7) PUBLIC OUTREACH CAMPAIGN.—The term
12 “public outreach campaign” means a public outreach
13 campaign as described in subsection (i)(1).

14 (8) SYMBOL.—The term “symbol” means the
15 “Do Not Flush” symbol, as depicted in the Guide-
16 lines for Assessing the Flushability of Disposable
17 Nonwoven Products (Edition 4; May 2018) pub-
18 lished by the Association of the Nonwoven Fabrics
19 Industry (INDA) and the European Disposables
20 And Nonwovens Association (EDANA), or an other-
21 wise identical symbol depicting an individual of an-
22 other gender.

