

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen**

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
2. “Covered Product” shall mean all wipes, including but not limited to Kirkland Signature Moist Flushable Wipes, and any moist toilet tissue or cloth.
3. Unless otherwise specified, “respondent” shall mean Nice-Pak Products, Inc., a corporation, its successors and assigns and its officers, agents, representatives, and employees.

I.

IT IS ORDERED that Respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, packaging, advertising, promotion, offering for sale, sale, or distribution of any Covered Product in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, illustration, trademark, or trade name, that the Covered Product:

- A. is safe for sewer systems;
- B. is safe for septic systems;
- C. breaks apart shortly after flushing;
- D. will not clog household plumbing systems;
- E. will not clog household septic systems;
- F. is safe for plumbing;
- G. is safe to flush;
- H. dissolves or disperses when interacting with water; or
- I. is flushable,

unless the representation is non-misleading, and, at the time the representation is made, Respondent possesses and relies upon competent and reliable evidence, which, when appropriate based on the expertise of professionals in the relevant area must be competent and reliable scientific evidence, that, when considered in light of the entire body of relevant and reliable evidence, is sufficient in quantity and quality

accepted in the profession to yield accurate and reliable results. Specifically, any tests, analyses, research, studies, or other evidence purporting to substantiate any of the above representations must at least:

A. d

IV.

IT IS FURTHER ORDERED that Nice-Pak Products, Inc. and its successors and assigns shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements, labeling, packaging and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation;
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- D. All acknowledgments of receipt of this order obtained pursuant to Part V.

V.

IT IS FURTHER ORDERED that Nice-Pak Products, Inc. and its successors and assigns shall, for five (5) years after entry of this order, deliver a copy of this order to all current and future subsidiaries, current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities relating to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order, with any electronic signatures complying with the requirements of the E-Sign Act, 15 U.S.C. § 7001 et seq. Nice-Pak Products, Inc. and its successors and assigns shall deliver this order to such persons within thirty (30) days after the date of service of this order, and to future such persons within thirty (30) days after such person assumes such position or responsibilities.

VI.

IT IS FURTHER ORDERED that Nice-Pak Products, Inc. and its successors and assigns shall send as soon as practicable, but in no event later than thirty (30) days after entry of this order, by first-class mail, postage prepaid and return receipt requested, an exact copy of the notice attached hereto as Attachment A, showing the date of mailing, to all of its trade customers, wholesalers, and retailers for or to whom it has manufactured, labeled, packaged, advertised, promoted, offered for sale, sold, or distributed any Covered Product that was advertised, promoted, offered for sale, sold, or distributed, with any of the representations, expressly or by implication, including through the use of a product name, endorsement, depiction, illustration, trademark, or trade name, enumerated in Part I A through I of this Order. The notice required by this paragraph shall include a copy of this order, but shall not include any other document or enclosures and shall be sent to the principal place of business of each entity.

VII.

IT IS FURTHER ORDERED that Nice-Pak Products, Inc., and its successors and

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or

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ATTACHMENT A

[ON NICE-PAK PRODUCTS, INC. LETTERHEAD]

[insert addressee name] [insert addressee address]

Dear [name of retailer]:

You have purchased Nice-Pak Products, Inc. (“Nice-Pak”) moist wipes for resale under your private label. In a recent enforcement action, the Federal Trade Commission (FTC) alleged that Nice-Pak made misleading representations in its advertising and marketing of “flushable” moist wipes made of non-elemental chlorine bleached wood pulp (non-