

NOTICE OF VIOLATION

California Safe Drinking Water
and Toxic Enforcement Act -
Proposition 65

GERBER PRODUCTS COMPANY
NOVARTIS CONSUMER HEALTH, INC.

May 27, 2003

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health ("CEH"). CEH is a nonprofit corporation dedicated to protecting the public from environmental health hazards and toxic exposures.

Description of Violation:

- The name and address of the violator is Gerber Products Co., 445 State Street, Fremont, Michigan 49413-0001, a wholly owned subsidiary of Novartis Consumer Health, Inc., 200 Kimball Drive Parsippany, NJ 07054-0622.
- The violations have been occurring since at least February 27, 1988 and are continuing to this day.
- This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- The names of the listed chemicals involved in these violations are lead, lead compounds, cadmium and cadmium compounds (the "Listed Chemicals"). Exposures to the Listed Chemicals occur from the use of the products identified in this notice.
- The category of products causing the violations is topical skin care products which have as an active ingredient zinc oxide, which contains the Listed Chemicals (the "Products"). A specific example of the Products is "Gerber Diaper Rash Ointment."
- The Products are used primarily to treat diaper rash and other skin irritations. The Products are applied to the irritated skin, where the Listed Chemicals in the zinc oxide are absorbed into the body through the skin and ingested through hand to mouth contact. Additionally, for powder Products, the Listed Chemicals in the zinc oxide are inhaled via airborne powder.
- These exposures occur in homes, workplaces and everywhere throughout California where the Products are used.
- No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of the Listed Chemicals.

Please direct any inquiries regarding this notice to counsel for the Center for Environmental Health: Mark N. Todzo, Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111.

CERTIFICATE OF MERIT

Health & Safety Code §25249.7(d)

I, Mark N. Todzo, hereby declare:

1. This Certificate of Merit accompanies the attached Sixty-Day Notice of Violation in which it is alleged that the party identified in such Notice has violated Health & Safety Code §25249.6 by failing to provide clear and reasonable warnings regarding the reproductive toxicity and carcinogenicity of the lead and lead compounds and cadmium and cadmium compounds contained in the topical skin care products with zinc oxide as the active ingredient manufactured, distributed and/or sold by such party.

2. I am an attorney with the Lexington Law Group, LLP, and I represent the noticing party, the Center for Environmental Health (“CEH”).

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies or other data regarding the exposures to the listed chemicals that are the subject of the attached Notice.

4. Based on the information obtained through the consultations referenced above, and on all other information in my possession, I believe that there is a reasonable and meritorious case for a citizen enforcement action based on the facts alleged in the attached Notice. I understand that “reasonable and meritorious case” means that the information provides a credible basis that all elements of the CEH’s case can be established and the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of the Certificate of Merit served on the Attorney general attaches to it

factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code §25249.7(h)(2), i.e. (1) the identity of the person(s) with whom I and/or members of my firm consulted; and (2) the facts, studies or other data reviewed by those persons.

Dated: May 27, 2003

PROOF OF SERVICE BY MAIL

I declare that:

I am employed in San Francisco County, California. I am over the age of 18 years and not a party to the within cause; my business address is 1627 Irving St., San Francisco, California 94122.

On May 27, 2003, I served a copy of the documents listed immediately hereafter by first class mail by placing the same in an envelope, sealing, fully preparing postage thereon, and depositing said envelope in the U.S. Mail at San Francisco, California. Said envelope was addressed as follows:

See attached service list (sent via certified mail with applicable postage to those listed with asterisks).

Documents mailed: . . .

NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;

CERTIFICATE OF MERIT;

INFORMATION SUPPORTING CERTIFICATE OF MERIT (Official Information pursuant to Evidence Code §1040, sent only to the Attorney General); and

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (only sent to those on service list marked with an asterisks).

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on May 27, 2003, at San Francisco, California.

SERVICE LIST

District Attorney of Alameda County 1225 Fallon Street, Room 900 Oakland, CA 94612	District Attorney of Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney of Mendocino County P.O. Box 1000 Ukiah, CA 95482
District Attorney of Colusa County 547 Market Street Colusa, CA 95932	District Attorney of Humboldt County 825 5th Street Eureka, CA 95501	District Attorney of Napa County 931 Parkway Mall Napa, CA 94559
District Attorney of Contra Costa County 725 Court Street, Room 402 Martinez, CA 94553	District Attorney of Imperial County 939 Main Street El Centro, CA 92243	District Attorney of Merced County 2222 "M" Street Merced, CA 95340
District Attorney of Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney of Lassen County 220 S. Lassen St., Ste 8 Susanville, CA 96130	District Attorney of Nevada County 201 Church St., Suite 8 Nevada City, CA 95959
District Attorney of Del Norte County 450 H Street, Ste 171 Crescent City, CA 95531	District Attorney of Inyo County P.O. Drawer D Independence, CA 93526	District Attorney of Orange County 401 Civic Ctr Drive West Santa Ana, CA 92701
District Attorney of Amador County 708 Court Street, #202 Jackson, CA 95642	District Attorney of Los Angeles County 210 W. Temple Street, Room 345 Los Angeles, CA 90012	District Attorney of Modoc County P.O. Box 1171 Alturas, CA 96101
District Attorney of Butte County 25 County Center Drive Oroville, CA 95965	District Attorney of Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney of Placer County 11562 "B" Avenue Auburn, CA 95603
District Attorney of El Dorado County 515 Main Street Placerville, CA 95667	District Attorney of Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney of San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004
District Attorney of Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney of Marin County 3501 Civic Center Dr., Room 183 San Rafael, CA 94903	District Attorney of Plumas County 520 Main Street, Room 404 Quincy, CA 95971
District Attorney of Fresno County 2220 Tulare Street, #1000 Fresno, CA 93721	District Attorney of Mono County P.O. Box 617 Bridgeport, CA 93517	District Attorney of San Diego County 330 West Broadway, Suite 1320 San Diego, CA 92112
District Attorney of Glenn County P.O. Box 430 Willows, CA 95988	District Attorney of Mariposa County P.O. Box 748 Mariposa, CA 95338	District Attorney of Riverside County 4075 Main Street, 1st Floor Riverside, CA 92501
District Attorney of Kings County 1400 West Lacey Hanford, CA 93230	District Attorney of Monterey County PO Box 1131 Salinas, CA 93901	District Attorney of San Francisco County 880 Bryant Street, Rm 325 San Francisco, CA 94103
District Attorney of Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney of San Joaquin County P.O. Box 990 Stockton, CA 95201	District Attorney of San Luis Obispo County 1050 Monterey St, Room 450 San Luis Obispo, CA 93408

District Attorney of San Benito
County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney of San Mateo
County
400 County Ctr, 3rd Fl
Redwood City, CA 94063

District Attorney of Sierra
County
Courthouse, P.O. Box 457
Downieville, CA 95936

District Attorney of Santa
Barbara County
1105 Santa Barbara Street
Santa Barbara, CA 93101

District Attorney of Siskiyou
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P.O. Box 986
Yreka, CA 96097

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Fairfield, CA 94533

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San Jose, CA 95110

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District Attorney of Shasta
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1525 Court Street, Third Floor
Redding, CA 96001-1632

District Attorney of Stanislaus
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800 11th Street, Room 200
Modesto, CA 95353

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Yuba City, CA 95991

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Ventura, CA 93009

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Red Bluff, CA 96080

District Attorney of Yolo County
301 Second Street
Woodland, CA 95695

District Attorney of Trinity County
P.O. Box 1310
Weaverville, CA 96093

District Attorney of Yuba County
215 Fifth Street
Marysville, CA 95901

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221 S. Mooney Ave, Room 224
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District Attorney of Tuolumne
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Sonora, CA 95370

San Jose City Attorney's Office
151 West Mission Street
San Jose, CA 95110

Los Angeles City Attorney's
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Room 1800, City Hall East
200 N. Main Street
Los Angeles, CA 90012

San Diego City Attorney's Office
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San Diego, CA 92101

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San Francisco, CA 94102

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