

October 26, 2017

To: President or CEO – Mead Johnson Nutrition Company

President or CEO – Mead Johnson & Company, LLC

California Attorney's Office

District Attorney's Office for 58 counties

City Attorney's for San Francisco, San Diego, San Jose, and Los Angeles

(See attached Certificate of Service)

From: Community Science Institute

Re: Notice of Violations of California Health & Safety Code Section 25249.5 et seq.

Dear Addressees:

This firm represents Community Science Institute ("CSI") in connection with this Notice of Violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* ("Proposition 65"). CSI is a fiscally sponsored project of the non-profit organization Social and Environmental Entrepreneurs. CSI's mission is to unite consumers and industrial neighbors to reform government and industry practices for a toxic free future. This letter serves to provide notification of these violations to you and to the public enforcement agencies of Proposition 65.

This letter constitutes notice that the entities listed below have violated and continue to violate provisions of Proposition 65. Specifically, the entity listed below has violated and continues to violate the warning requirement at § 25249.6 of the California Health & Safety Code, which provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual..."

<u>Violators</u>: The name of the violators covered by this notice that violated Proposition 65 (hereinafter collectively referred to as the "Violators") are (1) Mead Johnson Nutrition Company, and (2) Mead Johnson & Company, LLC.

<u>Listed Chemical</u>: This violation involves exposure to the listed chemical lead. On February 27, 1987, California officially listed lead as a chemical known to the State of California to cause developmental toxicity and male and female reproductive toxicity. On October 1, 1992, California officially listed lead and lead compounds as chemicals known to cause cancer.

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<u>Consumer Products</u>: The following specific products that are the subject of this notice are causing exposures in violation of Proposition 65 are:

- 1. Enfamil Reguline Infant Formula Milk-Based Powder with Iron
- 2. Enfamil EnfaCare Infant Formula Milk-Based Powder with Iron
- 3. Enfamil Infant Formula Milk-Based Powder with Iron
- 4. Enfamil A.R. Infant Formula Milk-Based Powder with Iron Thicked with Added Rice Starch
- 5. Enfamil Gentlease Milk-based Powder with Iron Infant Formula
- 6. Enfamil ProSobee Soy Infant Formula Milk-Free Lactose-Free Powder with Iron
- 7. Enfagrow Toddler Next Step Natural Milk Flavor Milk Drink
- 8. Enfagrow Gentlease Toddler Transitions Infant & Toddler Formula Milk-Based Powder with Iron
- 9. Enfagrow Toddler Transitions Infant & Toddler Formula Milk-Based Powder with Iron

<u>Violation</u>: The alleged Violators knowingly and intentionally exposed and continue to expose consumers within the State of California to lead without providing a Proposition 65 warning. The Violators have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, lead.

Route of Exposure: Use of the products identified in this notice results in human exposures to lead. The primary route of exposure is ingestion, but may also occur through inhalation and/or dermal contact.

<u>Duration of Violation</u>: The violations have been occurring since at least October 26, 2014, and are ongoing.

A summary of Proposition 65, prepared by the California Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter sent to the Violators.

Pursuant to California Health & Safety Code § 25249.7(d), CSI intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violators agree in an enforceable written agreement to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, CSI is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time consuming litigation.

CSI's Executive Director is Denny Larson, and is located at 6263 Bernhard Avenue, Richmond, California 94805, Tel. 415-845-4705. CSI has retained my firm in connection with this matter. Please direct all questions concerning this notice to me, Rebecca Davis

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(rebecca@lozeaudrury.com), Lozeau Drury LLP, 410 12th Street, Suite 250, Oakland, California 94607, (510) 836-4200.

Sincerely,

Rebecca L. Davis

Attachments:

Certificate of Merit Certificate of Service

OEHHA Summary (to Violators and their Registered Agents for Service of Process only) Additional Supporting Information for Certificate of Merit (to AG only)

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CERTIFICATE OF MERIT

Re: Community Science Institute's Notice of Proposition 65 Violations by Mead Johnson Nutrition Company and Mead Johnson & Company, LLC

I, Rebecca Davis, declare:

- 1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- 2. I am an attorney for the noticing party, Community Science Institute.
- 3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
- 4. Based on the information obtained through those consultants and other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged violator(s) will be able to establish any of the affirmative defenses set forth in the statute.
- 5. Along with the copy of this Certificate of Merit, additional factual information sufficient to establish the basis for this certificate has been served on the Attorney General, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: October 26, 2017

Rebecca Davis

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years old, and am not a party to the within action. My business address is 410 12th Street, Suite 250, Oakland, California 94607, in Alameda County, where the mailing occurred.

On October 26, 2017, I served the following documents: (1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT; (3) THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY on the following entities by placing a true and correct copy thereof in a sealed envelope with postage fully prepaid for delivery by Certified Mail, addressed to the entity listed below, and placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

Current President or CEO Mead Johnson Nutrition Company 225 North Canal Street, 25th Floor Chicago, IL 60606

Corporation Service Company Which Will Do Business in California as CSC-Lawyers Incorporating Service (C1592199) (Registered Agent for Service of Process for Mead Johnson Nutrition Company) 2710 Gateway Oaks Dr. Ste. 150N Sacramento, CA 95833 Current President or CEO Mead Johnson & Company, LLC 2701 Patriot Blvd. 4th Floor Glenview, IL 60026

Corporation Service Company Which Will Do Business in California As CSC-Lawyers Incorporating Service(C1592199) (Registered Agent for Service of Process for Mead Johnson & Company, LLC) 2710 Gateway Oaks Dr. Ste. 150N Sacramento, CA 95833

On October 26, 2017, I served the following documents (1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT; (3) ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d)(1) on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at https://oag.ca.gov/prop65/add-60-day-notice:

Office of the California Attorney General Prop 65 Enforcement Reporting 1515 Clay Street, Suite 2000 Oakland, CA 94612-0550

On October 26, 2017, I served the following documents (1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT were served on the following parties when a true and correct copy thereof was sent via electronic mail to the party listed below:

Stacey Grassini, Deputy District Attorney Contra Costa County 900 Ward Street Martinez, CA 94553 sgrassini@contracostada.org

Michelle Latimer, Program Coordinator Lassen County 220 S. Lassen Street Susanville, CA 96130 mlatimer@co.lassen.ca.us

Dije Ndreu, Deputy District Attorney Monterey County 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us

Gary Lieberstein, District Attorney Napa County 931 Parkway Mall Napa, CA 94559 CEPD@countyofnapa.org

Paul E. Zellerbach, District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org

Anne Marie Schubert, District Attorney Sacramento County 901 G Street Sacramento, CA 95814 Prop65@sacda.org Gregory Alker, Assistant District Attorney San Francisco County 732 Brannan Street San Francisco, CA 94103 gregory.alker@sfgov.org

Yen Dang, Supervising Deputy District Attorney Santa Clara County 70 W Hedding St San Jose, CA 95110 EPU@da.sccgov.org

Stephan R. Passalacqua, District Attorney Sonoma County 600 Administration Dr Sonoma, CA 95403 jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney Tulare County 221 S Mooney Blvd Visalia, CA 95370 Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney Ventura County 800 S Victoria Ave Ventura, CA 93009 daspecialops@ventura.org

Jeff W. Reisig, District Attorney Yolo County 301 Second Street Woodland, CA 95695 cfepd@yolocounty.org

On October 26, 2017, I served the following documents (1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope with postage fully prepaid for delivery by First Class Mail, addressed to each of the entities on the Service List attached hereto, and placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary co se of business with the United States Postal Service.

Executed on October 26, 2017, in Oakland, California.

Daniel Charlier-Smith

Service List

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612

District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120

District Attorney, Amador County 708 Court Street Jackson, CA 95642

District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965

District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249

District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932

District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531

District Attorney, El Dorado County 515 Main Street Placerville, CA 95667

District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721

District Attorney, Glenn County Post Office Box 430 Willows, CA 95988

District Attorney, Humboldt County 825 5th Street 4th Floor Eureka, CA 95501

District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243

District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514

District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301

District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230 District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453

District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012

District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637

District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903

District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338

District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482

District Attorney, Merced County 550 W. Main Street Merced, CA 95340

District Attorney, Modoc County 204 S Court Street, Room

202 Alturas, CA 96101-4020

District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517

District Attorney, Nevada County 201 Commercial Street Nevada City, CA 95959

District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701

District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678

District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971

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

District Attorney,San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101

District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202

District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408

District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063

District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101

District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060

District Attorney, Shasta County 1355 West Street Redding, CA 96001

District Attorney, Sierra County PO Box 457 Downieville, CA 95936

District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097

District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533

District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354

District Attorney, Sutter County 446 Second Street Yuba City, CA 95991

District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080

District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093

District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370

District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901 Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012

San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101

San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102

San Jose City Attorney's Office 200 East Santa Clara Street, 16th Floor San Jose, CA 95113