



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

April 28, 2021

By UPS Next Day and E-Mail

Beech-Nut Nutrition Company
c/o Joseph C. Scala, Esq.
One Nutritious Place
Amsterdam, New York 12010

Re: Beech-Nut Nutrition Company's Distribution of Infant Rice Cereal Products for Sale to Consumers in the State of New York

Dear Joseph C. Scala:

The Office of the New York Attorney General (OAG) has reason to believe that Beech-Nut Nutrition Company ("Beech-Nut") is distributing and/or has distributed one or more infant rice cereal products for sale to consumers in New York State that may be adulterated within the meaning of New York State Agriculture & Markets Law §§ 199-a, 200(1) and 202, because of the amount of inorganic arsenic, a toxic substance that is harmful to humans. Additionally, Beech-Nut's advertisements and other materials promoting any such product may violate New York General Business Law §§ 349 and 350. If Beech-Nut's conduct is or was unlawful under New York law, that conduct also would constitute repeated or persistent fraud or illegality in the transaction of business subject to investigation and enforcement by the OAG pursuant to New York State Executive Law § 63(12).

To aid the OAG's examination of the facts relevant to this matter, please provide the undersigned with the following information regarding the period of time from January 1, 2015 to the present. Please provide the requested information on or before May 28, 2021.

1. **Testing Practices and Policies for Inorganic Arsenic in Rice Cereal Products.**
Documents sufficient to understand Beech-Nut's practices, policies and/or standards regarding testing for inorganic arsenic in its infant rice cereal products sold in the State of New York.

Beech-Nut Nutrition Company

Page 2

April 28, 2021

2. Testing Practices and Policies for Inorganic Arsenic in Ingredients and Additives. Documents sufficient to understand Beech-Nut's practices, policies and/or standards regarding testing for inorganic arsenic in the ingredients and additives (including incidental additives), and any vitamin and mineral mixes, contained within Beech-Nut's infant rice cereal products sold in the State of New York.
3. Practices and Policies Concerning Product Safety. Documentation and communications, within Beech-Nut and with external parties, concerning the following:
 - a. Why and under what conditions Beech-Nut tests or tested its final products or the ingredients/additives that comprise its final products;
 - b. How Beech-Nut responds to the results generated from testing described in request 3a.
 - c. Any internal limits, standards, goals, and/or thresholds ("limits") Beech-Nut applies or applied concerning inorganic arsenic levels in its final infant rice cereal products or the ingredients/additives that comprise its final products, and how any of these limits affect any decisions concerning its infant rice cereal products;
 - d. Under what conditions Beech-Nut discontinues, recalls, or otherwise removes from the market its products due to health or safety concerns;
 - e. Under what conditions Beech-Nut withholds a product in development from the market due to health or safety concerns; and
 - f. Under what conditions Beech-Nut chooses to cease use of any ingredient or additive due to health or safety concerns.
4. Testing Results for Inorganic Arsenic in Rice Cereal Products. Copies of all analytical results from tests of inorganic arsenic content in Beech-Nut's infant rice cereal products of the type sold in the State of New York.
5. Testing Results for Inorganic Arsenic in Ingredients and Additives. Copies of all analytical results from tests of inorganic arsenic in any ingredient or additive (including incidental additives) and any vitamin and mineral mixes, of the type contained in Beech-Nut's infant rice cereal products of the type sold in the State of New York.

Beech-Nut Nutrition Company

Page 3

April 28, 2021

6. Laboratory Information. A spreadsheet with the names and addresses of all laboratories that Beech-Nut has used to carry out testing for inorganic arsenic in Beech-Nut's infant rice cereal final products and/or in ingredients that Beech-Nut used in the manufacture of its infant rice cereal products of the type sold in the State of New York.
7. Products. Please provide a list of all Beech-Nut infant rice cereal food products by name and Universal Product Code, accompanied by an image of the front of the product container and an image of the product's nutrition facts label, of the type sold in the State of New York. If Beech-Nut has discontinued an infant rice cereal product during the specified time period, please identify the date that the product was discontinued and the reason(s) for the discontinuance.
8. Rice-Based Product Ingredients. For each infant rice cereal product identified by Beech-Nut in its response to request no. 7 above, a list of all ingredients and additives (including incidental additives) and any vitamin and mineral mixes (whether organic or synthetic) that Beech-Nut used and/or uses in the manufacture of the product. If the ingredients or additives for a given product changed, please explain the change(s).
9. Top Retail Distribution Channels. A list of the top five retail distribution channels for Beech-Nut's infant rice cereal products sold in the State of New York for each of the years ending December 31, 2015 through 2020.
10. Product Recalls. Documentation and communications relating to any recalls or proposed recalls, whether initiated by Beech-Nut or directed by any authority, of any of Beech-Nut's infant or baby food products sold in the State of New York.
11. Public Information. How, if at all, Beech-Nut informs consumers or the public of the presence and/or level of inorganic arsenic in its infant rice cereal products.
12. Reduction of Inorganic Arsenic in Rice Cereal. Documents sufficient to understand any effort by Beech-Nut to reduce or eliminate inorganic arsenic from its infant rice cereal products, or their ingredients, including any manufacturing methods.
13. Advertising. All documents constituting Beech-Nut's advertising or other promotion of its infant rice cereal products in the State of New York and/or nationally. Please include screenshots of any descriptions of Beech-Nut's infant rice cereal products on the company's website; any company advertisements referring to its infant rice cereal products placed in print, billboards and other physical media, television, radio, or online media; and any other materials describing any attribute of Beech-Nut's infant rice cereal products to the general consuming public.

Beech-Nut Nutrition Company

Page 4

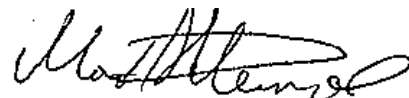
April 28, 2021

14. Communications with FDA. All communications, including electronic communications and presentations, between Beech-Nut and any employee or representative of the U.S. Food and Drug Administration regarding inorganic arsenic in infant rice cereal.
15. Communications with New York State Agencies. All communications, including electronic communications and presentations, between Beech-Nut and any representative of any New York State agency (including, without limitation, the New York State Department of Agriculture and Markets, or the New York State Department of Health) concerning inorganic arsenic in infant rice cereal.
16. House Subcommittee: Documents and Communications. All materials provided by Beech-Nut to the U.S. House Representatives Committee on Oversight and Reform's Subcommittee on Economic and Consumer Policy, whether referenced in the House Report or not, even if the information overlaps with other Requests herein; and any correspondence between Beech-Nut and the Subcommittee.
17. Inorganic Arsenic Health Effects Research. Any research, studies, or analysis reviewed or conducted by Beech-Nut or any of its employees or contractors, concerning the health effects of inorganic arsenic exposure on infants, toddlers or children.
18. Research on Reducing Inorganic Arsenic in Rice-Based Food. Any research, studies, or analysis reviewed or conducted by Beech-Nut or any of its employees or contractors, or in the possession of Beech-Nut, concerning agricultural and/or industrial methods for reducing the inorganic arsenic content in rice and rice-based food products (including, but not limited to, infant rice cereal).

This Office reserves the right to supplement the above requests for information. This Office also reserves the right to serve investigatory subpoenas pursuant to Executive Law § 63(12) on Beech-Nut or any person or entity who may have information pertinent to this matter.

We thank Beech-Nut for its anticipated cooperation. Should you have any questions, please contact the undersigned at 212-416-6692 or max.shterngel@ag.ny.gov. This is also the e-mail address to which Beech-Nut should direct its responses to the above requests.

Very truly yours,



Max Shterngel
Assistant Attorney General