



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

Gerber Products Company
c/o Nestlé Holdings, Inc.
Kevin Goldberg, Esq.
1812 N Moore St
Arlington, VA 22209

Re: Gerber Products Company's Infant Rice Cereal Products Distributed for Sale to Consumers in the State of New York

Dear Kevin Goldberg:

The Office of the New York Attorney General (OAG) has reason to believe that Gerber Products Company ("Gerber") 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, Gerber's advertisements and other materials promoting any such product may violate New York General Business Law §§ 349 and 350. If Gerber'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 Gerber's practices, policies and/or standards regarding testing for inorganic arsenic in its infant rice cereal products sold in the State of New York.

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2. Testing Practices and Policies for Inorganic Arsenic in Ingredients and Additives. Documents sufficient to understand Gerber'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 Gerber's infant rice cereal products sold in the State of New York.
3. Practices and Policies Concerning Product Safety. Documentation and communications, within Gerber and with external parties, concerning the following:
 - a. Why and under what conditions Gerber tests or tested its final products or the ingredients/additives that comprise its final products;
 - b. How Gerber responds to the results generated from testing described in request 3a.
 - c. Any internal limits, standards, goals, and/or thresholds ("limits") Gerber 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 Gerber discontinues, recalls, or otherwise removes from the market its products due to health or safety concerns;
 - e. Under what conditions Gerber withholds a product in development from the market due to health or safety concerns; and
 - f. Under what conditions Gerber 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 Gerber'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 Gerber's infant rice cereal products of the type sold in the State of New York.

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6. Laboratory Information. A spreadsheet with the names and addresses of all laboratories that Gerber has used to carry out testing for inorganic arsenic in Gerber's infant rice cereal final products and/or in ingredients that Gerber 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 Gerber 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 Gerber 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 Gerber 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 Gerber 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 Gerber'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 Gerber or directed by any authority, of any of Gerber's infant or baby food products sold in the State of New York.
11. Public Information. How, if at all, Gerber 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 Gerber to reduce or eliminate inorganic arsenic from its infant rice cereal products, or their ingredients, including any manufacturing methods.
13. Advertising. All documents constituting Gerber'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 Gerber'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 Gerber's infant rice cereal products to the general consuming public.

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14. Communications with FDA. All communications, including electronic communications and presentations, between Gerber 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 Gerber 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 Gerber 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 Gerber and the Subcommittee.
17. Inorganic Arsenic Health Effects Research. Any research, studies, or analysis reviewed or conducted by Gerber 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 Gerber or any of its employees or contractors, or in the possession of Gerber, 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 Gerber or any person or entity who may have information pertinent to this matter.

We thank Gerber for its anticipated cooperation. Should you have any questions, please contact the undersigned at 212-416-8479 or samantha.liskow@ag.ny.gov. This is also the e-mail address to which Gerber should direct its responses to the above requests.

Very truly yours,



Samantha Liskow
Assistant Attorney General