



June 5, 2008

Clay G. Small
Senior Vice President
Legal Affairs

The Honorable John D. Dingell
Chairman House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Bart Stupak
Chairman
Subcommittee on Oversight and Investigations
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Re: PepsiCo, Inc. Response to May 8, 2008 Inquiry

Dear Chairman Dingell and Chairman Stupak:

I am responding to your May 8, 2008 letter to Ms. Indra K. Nooyi requesting certain information regarding possible microbiological or chemical contamination of food processed and sold by PepsiCo, Inc. (PepsiCo). In this letter we provide responses to questions two through six on behalf of our United States business units for products processed or imported for sale in the United States. Our response to question one can be found in my May 28th letter. Information regarding our international business units, including products sold in Puerto Rico and other U.S. territories, will be included in our response that will be submitted on June 19th. Following our June 19th response, Ms. Nooyi will submit a separate letter to the Committee regarding the PepsiCo submissions. We understand this approach will accommodate your request to have Ms. Nooyi sign on behalf of PepsiCo.

At PepsiCo we take food safety very seriously. Ensuring that our customers enjoy products of the highest quality and safety is of paramount importance to the company. Our commitment starts with developing specifications for our products and their ingredients. We select and work with reputable ingredient suppliers to ensure they meet our specifications. We also integrate quality and food safety standards in our processing facilities and adhere to good manufacturing practices. Our commitment to safety and quality extends beyond the microbiological and chemical contaminant testing program reflected in this response.

We are proud of our food safety and quality assurance program and our commitment to preventing the introduction into commerce of food products containing chemical or microbiological contaminants that would render the food unsafe. The information provided below reflects the success of our efforts.

As we explained in our May 28th response, PepsiCo is a global company with multiple business units, including PepsiCo Beverages North America, Frito-Lay North America, and Quaker Foods North America. In response to your inquiry, PepsiCo assembled a team from each of the United States business units. Each team member identified individuals within each business unit who either would have information relevant to your May 8th inquiry, or would be able to identify other individuals or sources for that information. These individuals, who included key personnel with responsibility for food safety and quality such as microbiology and quality systems managers, reviewed internal company files to provide information in response to your request. We held follow-up meetings and interviews to ensure we had identified and reviewed all relevant sources of information in the company's possession. In order to answer your inquiry comprehensively and accurately, we reviewed both physical and electronic files (e.g., databases, personal files, and department files) for responsive information. PepsiCo's team subsequently prepared this response from the information and data compiled. As PepsiCo has over 50 manufacturing facilities in the United States alone, our team reviewed a substantial quantity of potentially responsive files and we dedicated considerable time and resources to this effort.

We are attaching to this letter confidential information regarding product testing and inspections. We have labeled these attachments "confidential" because we view this information as proprietary business information. We understand the Committee is not legally bound to protect confidentiality. We, nonetheless, ask that you respect the confidential nature of this information and that you provide us with advance notice before disclosing it.

We have repeated each question in your inquiry below, and then provide our response.

2. For each brand or kind of product, please list all instances when internal microbiological testing was found to be positive for the presence of *E. coli*, *Salmonella*, *Cyclospora cayetanensis*, *Cryptosporidium*, hepatitis A, *Clostridium botulinum*, or *Listeria* in excess of the highest limit acceptable to the Food and Drug Administration (FDA) or any State regulatory authority.

We reviewed the company's internal files for microbiological testing involving the organisms identified above for each brand or kind of food product marketed by PepsiCo. Attachment 2 contains a chart identifying those instances where microbiological testing yielded results in excess of the highest established limit acceptable to FDA or any state regulatory authority for the organisms that you identified.

3. For each brand or kind of product, please list the instances when internal testing was found to be positive for the presence of a chemical contaminant at levels in excess of the highest limit acceptable to FDA or any State regulatory authority.

We reviewed the company's internal files for information regarding chemical contaminant testing for each brand or kind of food product marketed by PepsiCo. We used as guidance information found on FDA's website indicating acceptable levels for chemical contaminants, metals, natural toxins, and pesticides.^{1/} In addition to FDA acceptable levels, the

^{1/} U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, *Pesticides, Metals, Chemical Contaminants & Natural Toxins*, <http://www.cfsan.fda.gov/~lrd/pestadd.html> (last visited June 5, 2008).

information provided is responsive to state levels that pertain to food safety and adulteration, but not to state levels tied only to consumer information disclosures. Attachment 3 contains the information that is responsive to this question.

4. For products imported into the United States for handling or processing by any facility operated by your firm, please list the instances when internal or outside laboratory testing was positive for the presence of either a chemical or microbiological contaminant in excess of FDA or State regulatory limits.

For those food products imported by PepsiCo, we reviewed the company's internal files for microbiological or chemical contaminant test results in excess of established FDA or state levels for products imported into the United States. Attachment 4A contains information on microbiological contaminants and Attachment 4B contains information on chemical contaminants.

5. For each of the above items, please specify whether FDA was notified, and if not, why not.

We notified FDA of each instance where our products contained a microbiological or chemical contaminant that resulted in a product recall. The information provided in our May 28th letter also identifies those instances when we notified FDA that we were withdrawing from the market a product due to the presence of a possible contaminant or for other reasons. The information provided in Attachments 2, 3, 4A, and 4B identifies whether we contacted FDA after discovering the level of a contaminant that exceeded an FDA, state, or internal acceptable level.

6. Please supply a list of all instances where FDA or any State regulatory authority was denied entrance to any facility, foreign or domestic, or denied access to any records regarding microbiological or chemical testing performed on products processed at the facility. This request encompasses denials of initial requests for entry or any such testing record regarding of whether the plant or its records were to be made available for inspection at a later date.

We reviewed the information in the company's internal files regarding inspections conducted by FDA or state officials of PepsiCo facilities. Attachment 6 contains a chart identifying instances when we delayed or denied entrance to any domestic facility or denied access to any records regarding microbiological or chemical testing performed on products processed at the facility.

We do not view this submission as waiving any rights, privileges, or immunities. If we can answer any questions regarding the information provided in this letter, please let us know.

Respectfully submitted,



Clay G. Small
Senior Vice President – Legal Affairs

cc: The Honorable Joe Barton, Ranking Member
House Committee on Energy and Commerce

The Honorable John Shimkus, Ranking Member
Subcommittee on Oversight and Investigations