



Memorandum

Date: DEC 17 2002

From: Consumer Safety Officer, Division of Standards and Labeling Regulations, Office of Nutritional Products, Labeling and Dietary Supplements, HFS-821

Subject: 75-Day Premarket Notification of New Dietary Ingredients

To: Dockets Management Branch, HFA-305

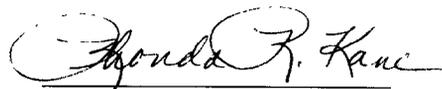
Subject of the Notification: Cordyceps sinensis mycelia

Firm: Premiere Towa, Inc.

Date Received by FDA: March 13, 2002

90-Day Date: June 11, 2002

In accordance with the requirements of section 413(a) of the Federal Food, Drug, and Cosmetic Act, the attached 75-day premarket notification and related correspondence for the aforementioned substance should be placed on public display in docket number 95S-0316 as soon possible since it is past the 90-day date. Thank you for your assistance.


Rhonda R. Kane, M.S., R.D.

Attachments

95S-0316

RPT121

**MAY 1 2002**

Ms. Donna Matsumura
Premiere Towa, Inc.
Sales Manager
23679 Calasbasas Road, Suite #127
Calasbasas, California 91302

Dear Ms. Matsumura:

This is to inform you that the notification, dated February 25, 2002, you submitted pursuant to 21 U.S.C. 350b(a)(2) was received and filed by this office of the Food and Drug Administration (FDA) on March 13, 2002. Your notification concerns the substance "*Cordyceps sinensis mycelia*" that you describe as a parasitic fungus growing in the larvae of caterpillars and that you assert is a new dietary ingredient. (We italicized the names of the genus and species of this fungus to conform to the internationally recognized format for citing the Latin binomial name of a plant.) Your notification also states that your company would serve as the sole distributor of *Cordyceps sinensis mycelia* manufactured by the Taiwan Sugar Corporation (TSC) under the brand name "TSC Bio-nature *Cordyceps sinensis mycelia*."

The law at 21 U.S.C. 350b(a)(2) requires that a manufacturer or distributor of a dietary supplement that contains a new dietary ingredient submit certain information to FDA at least 75 days before the dietary ingredient is introduced or delivered for introduction into commerce. This information must include the basis on which the manufacturer or distributor has concluded that a dietary supplement containing such new dietary ingredient will reasonably be expected to be safe. FDA reviews this information to determine whether it provides an adequate basis for such a conclusion. Under section 350b(a)(2), there must be a history of use or other evidence of safety establishing that the dietary ingredient, when used under the conditions recommended or suggested in the labeling of the dietary supplement, will reasonably be expected to be safe. If this requirement is not met, the new dietary ingredient is deemed to be adulterated under 21 U.S.C. 342(f)(1)(B), because there is inadequate information to provide reasonable assurance that the new dietary ingredient does not present a significant or unreasonable risk of illness and injury.

Federal regulations found at 21 CFR § 190.6 specify the requirements for a premarket notification on a new dietary ingredient. A copy of this section is enclosed for your reference. The notification you sent us concerning TSC Bio-nature *Cordyceps sinensis mycelia* does not comply with the requirements of 21 CFR § 190.6 because it fails to:

- completely identify the Latin binomial name of the fungus *Cordyceps sinensis*, which must include the name(s) of the author(s) who published the name,

- sufficiently describe the dietary supplement(s) that would contain TSC Bio-nature Cordyceps sinensis mycelia, including the identity, amounts, composition, and properties of all the active and inactive ingredients in the supplement(s),
- state the level(s) or amount of TSC Bio-nature Cordyceps sinensis mycelia that would be provided in the dietary supplement(s) (e.g., amount per capsule),
- fully specify the recommended conditions of use of a dietary supplement containing TSC Bio-nature Cordyceps sinensis mycelia, including: its purpose or effect(s) and mode of action; a description of the target population of consumers in terms of gender, age, and any subgroups that should be excluded (e.g., infants, children, pregnant or lactating women, persons with certain medical conditions or those taking particular medications); and duration of use (e.g., for a certain number of months versus every day for a lifetime),
- provide sufficient evidence establishing that a dietary supplement containing TSC Bio-nature Cordyceps sinensis mycelia will reasonably be expected to be safe when used at your recommended level of intake, and
- provide copies of written reports or findings (noting the complete reference citations) from the toxicity studies on animals and physiology studies on humans using TSC Bio-nature Cordyceps sinensis mycelia that you cited in your notification and used in support of your safety determination.

Your notification states that *Cordyceps sinensis*, as a parasitic fungus growing in the larvae of caterpillars, has been used in traditional Chinese medicine for many centuries. However, your notification does not explain how *Cordyceps sinensis* has been used in traditional Chinese medicine and how this past practice compares to your recommended use of a dietary supplement containing TSC Bio-nature Cordyceps sinensis mycelia. For example, it would be helpful if your notification discussed how the following characteristics apply to the use of *Cordyceps sinensis* in traditional Chinese medicine and whether they are the same or different from those that apply to the use of TSC Bio-nature Cordyceps sinensis mycelia in a dietary supplement: purpose or special uses; biological activity or effects; part of the fungus used (e.g., mycelia) and whether it includes as a residue the carcasses of the host larvae; method of preparation (e.g., whole dried substance or an extract); route of administration (e.g., oral consumption versus topical use); description of the population of consumers (e.g., gender, age, subgroups who likely used it, and any subgroups excluded from using it); typical duration of use (e.g., weeks, months, years, or a lifetime); and any adverse effects, warnings, or cautions about using it (e.g., allergic reactions, gastrointestinal problems, or advice not to be used by children or during pregnancy). If the product TSC Bio-nature Cordyceps sinensis mycelia has been marketed in Taiwan or another country, it would be helpful to share with us its history of use or exposure data in terms of the same characteristics noted above.

Further, your notification states: “TSC screened hundreds of *C. sinensis* in the fields to obtain the best quality *C. sinensis* mycelia” and that “TSC Bio-nature Cordyceps sinensis mycelia are produced with a newly developed biotechnology process to culture it under highly regulated conditions.” Similarly, your notification does not describe the biotechnology

process used to manufacture TSC Bio-nature *Cordyceps sinensis* mycelia and its impact on this product. Your notification should clarify whether TSC Bio-nature *Cordyceps sinensis* mycelia represent the same form of *Cordyceps sinensis* as used in traditional Chinese medicine. We are uncertain from the description in your notification whether TSC Bio-nature *Cordyceps sinensis* mycelia: 1) have been genetically engineered, 2) have been chemically altered, 3) represent a special cultured "variety" of *Cordyceps sinensis*, 4) require the use of caterpillar larvae as a host for growth, or 5) include the carcasses of the host larvae found as a residue in the dietary supplement. In addition, your notification should identify the genus, species and author citation for any caterpillar larvae used as a host and whether this information is the same for the larvae used to produce *Cordyceps sinensis* used in traditional Chinese medicine.

Your notification should address the suggested details about the history of use of *Cordyceps sinensis* in traditional Chinese medicine in order to illustrate how you determined that your proposed dietary supplement containing TSC Bio-nature *Cordyceps sinensis* mycelia will reasonably be expected to be safe when used as recommended in the product's labeling. Including copies of any published scientific literature or other authoritative references in your notification that provide evidence of safety of *Cordyceps sinensis* mycelia used as a food or medicine would lend additional support for your safety determination.

If desired, you may send us the required information to correct the deficiencies in your current notification in the form of an amendment in triplicate (i.e., an original and two copies). However, in order to serve as an amendment to the current notification, the information you submit must be delivered to this office by no later than May 27, 2002, which is 75 days after the current notification's filing date. Another option is to send us at any time a new notification, in triplicate, that is complete and fully complies with 21 CFR § 190.6. The date we receive this additional information is considered the new filing date for either an amended or new notification.

Although not required, if you decide to submit an amended or new notification, we would appreciate your sending us an additional two copies for a total of five copies (i.e., an original and four copies) to facilitate our internal administrative processing of the notification. Please make sure that all copies you send us contain the same information in accordance with 21 CFR §190.6.

In addition to reviewing the enclosure on the requirements of 21 CFR §190.6, you may wish to consult FDA's Web site at <http://www.cfsan.fda.gov/~dms/supplmnt.html> that addresses a variety of issues related to dietary supplements, including labeling and claims. Details about FDA's new dietary ingredient notification program can be accessed directly at <http://www.cfsan.fda.gov/~dmn/ds-ingrd.html>.

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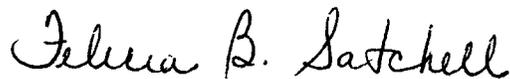
For the reasons discussed above, your notification does not provide an adequate basis to conclude that the use of TSC Bio-nature Cordyceps sinensis mycelia in a dietary supplement will reasonably be expected to be safe when used as recommended. Therefore, your product may be adulterated under 21 U.S.C. 342(f)(1)(B) as a dietary supplement that contains a new dietary ingredient for which there is inadequate information to provide reasonable assurance that it does not present a significant or unreasonable risk of illness or injury. Introduction of such products into interstate commerce is prohibited under 21 U.S.C. 331(a) and (v).

Your notification will be kept confidential for 90 days from the date of its receipt. After June 11, 2000, your notification and this response will be placed on public display at FDA's Dockets Management Branch in docket number 95S-0316. However, any trade secret or otherwise confidential commercial information in the notification will not be disclosed to the public.

Prior to June 11, 2002, you may wish to identify in writing specifically what information you believe is proprietary. Nevertheless, our Center's Freedom of Information Officer has the authority to make the final decision about what information in the notification should be redacted before it is posted at Dockets.

Should you have any questions concerning this matter, please contact me at (301) 436-2371.

Sincerely yours,



Felicia B. Satchell
Director
Division of Standards
and Labeling Regulations
Office of Nutritional Products, Labeling
and Dietary Supplements
Center for Food Safety
and Applied Nutrition

Enclosure

[Code of Federal Regulations]
[Title 21, Volume 3]
[Revised as of April 1, 2001]
From the U.S. Government Printing Office via GPO Access
[CITE: 21CFR190.6]

[Page 569-570]

TITLE 21--FOOD AND DRUGS

CHAPTER I--FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN
SERVICES (CONTINUED)

PART 190--DIETARY SUPPLEMENTS--Table of Contents

Subpart B--New Dietary Ingredient Notification

Sec. 190.6 Requirement for premarket notification.

(a) At least 75 days before introducing or delivering for introduction into interstate commerce a dietary supplement that contains a new dietary ingredient that has not been present in the food supply as an article used for food in a form in which the food has not been chemically altered, the manufacturer or distributor of that supplement, or of the new dietary ingredient, shall submit to the Office of Nutritional Products, Labeling and Dietary Supplements (HFS-820), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, information including any citation to published articles that is the basis on which the manufacturer or distributor has concluded that a dietary supplement containing such dietary ingredient will reasonably be expected to be safe. An original and two copies of this notification shall be submitted.

(b) The notification required by paragraph (a) of this section shall include:

(1) The name and complete address of the manufacturer or distributor of the dietary supplement that contains a new dietary ingredient, or of the new dietary ingredient;

(2) The name of the new dietary ingredient that is the subject of the premarket notification, including the Latin binomial name (including the author) of any herb or other botanical;

(3) A description of the dietary supplement or dietary supplements that contain the new dietary ingredient including:

(i) The level of the new dietary ingredient in the dietary supplement; and

(ii) The conditions of use recommended or suggested in the labeling of the dietary supplement, or if no conditions of use are recommended or suggested in the labeling of the dietary supplement, the ordinary conditions of use of the supplement;

(4) The history of use or other evidence of safety establishing that the dietary ingredient, when used under the conditions recommended or suggested in the labeling of the dietary supplement, will reasonably be expected to be safe, including any citation to published articles or other evidence that is the basis on which the distributor or manufacturer of the dietary supplement that contains the new dietary ingredient has concluded that the new dietary supplement will reasonably be expected to be safe. Any reference to published information offered

in support of the notification shall be

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accompanied by reprints or photostatic copies of such references. If any part of the material submitted is in a foreign language, it shall be accompanied by an accurate and complete English translation; and

(5) The signature of the person designated by the manufacturer or distributor of the dietary supplement that contains a new dietary ingredient.

(c) FDA will acknowledge its receipt of a notification made under section 413 of the Federal Food, Drug, and Cosmetic Act (the act) and will notify the submitter of the date of receipt of such a notification. The date that the agency receives the notification submitted under paragraph (a) of this section is the filing date for the notification. For 75 days after the filing date, the manufacturer or distributor of a dietary supplement that contains a new dietary ingredient shall not introduce, or deliver for introduction, into interstate commerce the dietary supplement that contains the new dietary ingredient.

(d) If the manufacturer or distributor of a dietary supplement that contains a new dietary ingredient, or of the new dietary ingredient, provides additional information in support of the new dietary ingredient notification, the agency will review all submissions pertaining to that notification, including responses made to inquiries from the agency, to determine whether they are substantive and whether they require that the 75-day period be reset. If the agency determines that the new submission is a substantive amendment, FDA will assign a new filing date. FDA will acknowledge receipt of the additional information and, when applicable, notify the manufacturer of the new filing date, which is the date of receipt by FDA of the information that constitutes the substantive amendment.

(e) FDA will not disclose the existence of, or the information contained in, the new dietary ingredient notification for 90 days after the filing date of the notification. After the 90th day, all information in the notification will be placed on public display, except for any information that is trade secret or otherwise confidential commercial information.

(f) Failure of the agency to respond to a notification does not constitute a finding by the agency that the new dietary ingredient or the dietary supplement that contains the new dietary ingredient is safe or is not adulterated under section 402 of the act.

[62 FR 49891, Sept. 23, 1997, as amended at 66 FR 17359, Mar. 30, 2001]

URGENT!!

From Premiere Towa, Inc.
23679 Calabasas Rd., Suite 127
Calabasas, Ca 91302
Tel: (818) 591-7678
Fax: (818) 591-2130

4/23/02

APR 30 2002

To: Office of Nutritional Products, Labeling, and Dietary Supplements
Center for Food Safety and Applied Nutrition

Dear Sir/Madam:

We have submitted a premarket notification for a new dietary ingredient- Cordyceps sinensis mycelia in February, and would like to check its processing status. Please kindly acknowledge its receipt in writing and the date its is received once you complete evaluation. We truly thank you for your attention and look forward to hearing from you soon

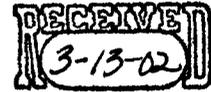
Sincerely Yours,


Donna Matsumura

Feb 25, 2002

To: FDA

Division of Standards and Labeling Regulations
Office of Nutritional Products, Labeling, and Dietary Supplements
Center for Food Safety and Applied Nutrition



From: PREMIERE TOWA, INC.

(Sole distributor for Taiwan Sugar Corporation TSC)
23679 Calabasas Rd., suite #127
Calabasas, Ca 91302
Tel: 818-591-7678
Fax: 818-591-2130

The name of the new dietary ingredient: **Cordyceps Sinensis Mycelia**

Introduction of TSC Bio-nature Cordyceps sinensis mycelia

Cordyceps sinensis, a parasitic fungus growing in the larvae of caterpillar, has been used as a traditional Chinese medicine for many centuries. There are more than three hundred and fifty species of C. sinensis reported world wide, but the best quality of C. sinensis is only found at places with altitudes that are between three and five thousand meters above sea level; such as Tibet, Tsinghai, and Szuchuan of China.

C. sinensis requires a specific host and a strict environment to grow, therefore, the sources of C. sinensis are very limited. This results in many imitation products in the market. Because of the increase in demand, and the reduction of natural Cordyceps supplies, techniques to culture Cordyceps have been developed by Taiwan Sugar Corporation (TSC) to meet the quantity and quality required by the market.

TSC screened hundreds of C. sinensis in the fields to obtain the best quality C. sinensis mycelia. TSC Bio-nature Cordyceps sinensis mycelia are produced with a newly developed biotechnology process to culture it under highly regulated conditions. It will reduce the cost of producing Cordyceps, and provide an inexpensive product to consumers. Under stringent quality control, the product is indeed a very effective and safe tonic for health.

Quality Assurance

TSC Bio-nature Cordyceps sinensis mycelia contain more amounts of polysaccharides and nucleic acid derivatives than as in the natural type analyzed by very stringent analytic methods. TSC Bio-nature Cordyceps sinensis mycelia were

taken to Taipei Medical College for toxicity studies on animals and physiology studies on human.

It has been proved that the safety of TSC Bio-nature Cordyceps sinensis mycelia is completely assured. Adhering to our responsible attitude to customers, we have been applying advanced biotechnology to develop the best-quality, safe, and stable TSC Bio-nature Cordyceps sinensis mycelia which won the "Food Golden Award 1998" of Taiwan, ROC.

Recommended Serving:
Three times daily, 2 capsules each time, serving either before meals or after meals.

Sincerely Yours,


Donna Matsumura
Premiere Towa, Inc.
Sales Manager