

From: Kolber, Justin <justin.kolber@vermont.gov>
Sent: Friday, December 10, 2021 11:03 AM
To: rapeterson@locklaw.com
Cc: Curtis, Christopher <Christopher.Curtis@vermont.gov>
Subject: FOIA Request for Access to Public Records - Vermont

Dear Attorney Peterson,

Please see the attached response letter to your request (also attached).

Best,
Justin

Justin Kolber
Assistant Attorney General
Vermont Attorney General's Office
Environmental and Public Protection Divisions
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov
pronouns: he/him/his

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

JOSHUA R. DIAMOND
DEPUTY ATTORNEY GENERAL

SARAH E.B. LONDON
CHIEF ASST. ATTORNEY GENERAL



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

TEL: (802) 828-3171

FAX: (802) 828-3187

TTY: (802) 828-3665

<http://www.ago.vermont.gov>

December 10, 2021

Rebecca Peterson
Lockridge Grindal Nauen P.L.L.P.
100 Washington Avenue South, Suite 2200
Minneapolis, MN 55401

Sent By Electronic Mail: rapeterson@locklaw.com

Dear Attorney Peterson,

Thank you for your public records request dated December 8, 2021.

You requested documents regarding a "Petition" to the FDA dated October 21, 2021 and signed by 23 Attorneys General, and specifically:

- Documents that provided a basis for the Petition, including but not limited to meeting agenda or notes where the Petition or the presence of heavy metals in baby food products were discussed; drafts of the Petition; and related communications amongst the Attorneys General;
- Internal or external communications sent to or received by the Attorneys General regarding action levels for inorganic arsenic, lead, cadmium, and/or mercury in infant and toddler foods;
- Internal or external communications sent to or received by the Attorneys General regarding an action level for inorganic arsenic in infant rice cereal that is lower than the existing action level of 100 ppb;
- Internal or external communications sent to or received by the Attorneys General regarding industry guidance that testing of finished baby food products for inorganic arsenic, lead, cadmium, and mercury is a preventive control that should be performed by baby food manufacturers;
- Documents that provided a basis for Appendix A in the Petition relating to the presence of inorganic arsenic in baby food snack products where rice or rice flour is listed as the first, second, or third ingredient, including but not limited to test results; underlying data, analyses, or reports; or communications amongst the Attorneys General and/or with the FDA; Documents that provided a basis for Appendix B in the Petition relating to the presence of cadmium in baby food snack products where rice or rice flour is listed as the

first, second, or third ingredient, including but not limited to test results; underlying data, analyses, or reports; or communications amongst the Attorneys General and/or with the FDA; and

- Documents that provided a basis for Appendix C in the Petition relating to the presence of cadmium in pureed baby food products where sweet potatoes or carrots are listed as the first, second, or third ingredient, including but not limited to test results; underlying data, analyses, or reports; or communications amongst the Attorneys General and/or with the FDA.

Please be advised that with respect to the requested items (other than the one item noted below), the documents potentially responsive to your request are withheld as exempt from disclosure. These potentially responsive records are exempt from disclosure pursuant to 1 V.S.A. § 371(c)(3), (4), (c)(14) (would violate adopted standards or ethics of a regulated profession, attorney-client communications, attorney work product, exempt from production due to pending litigation), and/or the common interest doctrine.

There is one potentially responsive document that is available online here:

<https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf>

If you would like to narrow your request, or if there is something specific you were seeking that you would like to discuss, or that I can assist you with, please don't hesitate to contact me at: christopher.curtis@vermont.gov; 802-279-5496.

If you feel any information or records have been withheld in error, you may appeal to Deputy Attorney General Joshua Diamond at the following email address: Joshua.Diamond@vermont.gov.

Thank you for your consideration.

Sincerely,

/s/ Christopher J. Curtis

Christopher J. Curtis
Chief, Public Protection Division