

**From:** [Freier, Krista K.](#)  
**To:** [AGO - Info](#)  
**Cc:** [LeRoy, Kelly J.](#)  
**Subject:** Request for Access to Public Records  
**Date:** Wednesday, December 8, 2021 4:30:14 PM  
**Attachments:** [FOIA Request Letter re AG Heavy Metals Investigation - Vermont.pdf](#)

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**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

Good afternoon,

Please see our attached request regarding access to public records under Vermont's Public Records Act.

Thank you,

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December 8, 2021

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VIA E-MAIL

Office of the Vermont Attorney General  
Public Records Act Request  
109 State Street  
Montpelier, VT 05609

Re: Request for Access to Public Records, Heavy Metals Investigation by State Attorneys General

Dear Sir or Madam:

We represent various plaintiffs in a series of putative class action lawsuits pending against various manufacturers of baby food, including Beech-Nut Nutrition Company, Gerber Product Company, Hain Celestial Group, Nurture, Inc., and Plum, PBC regarding the truthfulness of their advertising and labels and the ingredients used in their products.

We are writing to formally request access to certain public records under Vermont's Public Records Act, 1 V.S.A. §316. This request is related to the October 21, 2021, petition (the "Petition") submitted to the Food and Drug Administration ("FDA") from the 23 State Attorneys General and signed by the Attorneys General of New York, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, Nevada, North Carolina, Oregon, Pennsylvania, Vermont, Virginia, Washington, and Wisconsin (the "Attorneys General") requesting the FDA adopt actions proposed by the Attorneys General and detailed in the Petition.

In response to the reports from earlier this year by the U.S. House Oversight Committee's Subcommittee on Economic and Consumer Policy regarding the presence of heavy metals in baby food products, and the resulting proposed legislation (the Baby Food Safety Act of 2021) as well as letters submitted to the Acting Commissioner of the FDA (including the February 8, 2021, letter from the New York Attorney General), the Attorneys General requested the FDA take three specific actions: (1) "issue interim proposed action levels for four toxic heavy metals- inorganic arsenic, lead, cadmium, and mercury- in all relevant categories of infant and toddler (baby) foods"; (2) "propose an action level for inorganic arsenic in infant rice cereal that is lower than the existing action level of 100 parts per billion (ppb)"; and (3) "issue guidance to industry 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 to limit the concentration of these heavy metals in their products.”

We are requesting the following records related to the Petition, whether generated by, sent to, or received by any of the Attorneys General who signed the Petition, including Vermont Attorney General, Thomas Donovan, Jr., regarding:

- 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.

Records responsive to my requests should be copied and sent to the address below. If possible, we would prefer that the requests be filled electronically via an e-mail attachment or CD-ROM.

Rebecca Peterson  
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We ask for a determination on this request within 10 days of your receipt. If a determination regarding the records we are requesting will take longer than that, please contact us with information about when we might expect such a decision.

If you determine that any or all of the information qualifies for an exemption from disclosure, please indicate whether such exempt information was discretionary. If you intend to withhold some information but not all because it is exempt from disclosure, please redact the information to be withheld and release the redacted record. If any information is withheld, please inform us of the specific legal authority on which you base your decision.

If you anticipate the duplication costs to exceed \$200, please notify us prior to any records being duplicated.

If there is a specific designee to whom we should direct our request, please inform us. Additionally, please do not hesitate to contact us if you require any additional information regarding this request. We are also open to entertaining any suggestions that might expedite the processing of the information.

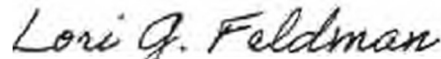
Very truly yours,

LOCKRIDGE GRINDAL NAUEN P.L.L.P.



Rebecca A. Peterson

GEORGE GESTEN MCDONALD, PLLC



Lori G. Feldman

RAP/brg