

AGREEMENT

INFORMATION SHARING AND RESTRICTIONS ON INFORMATION HANDLING

In order to respond to the public health emergency in Flint, MI, EPA issued a §1431 Order (Order) pursuant to the Safe Drinking Water Act (SDWA) on January 21, 2016, to the State of Michigan (State), Michigan Department of Environmental Quality (MDEQ) and City of Flint (Flint) (collectively, the Recipients). SDWA Section 1431, 42 U.S.C. §300(i). To provide transparency and facilitate the Recipients' fulfillment of the requirements of the Order, as well as other obligations to protect the public health under SDWA, EPA may provide EPA-obtained documents or other records for use by the Recipients, Michigan Department of Health and Human Services, Genessee County Health Department, the following federal agencies responding to the emergency in Flint: the Department of Health and Human Services and/or the Centers for Disease Control and Prevention and/or the Agency for Toxic Substances and Disease Registry, and the following individuals: Dr. Marc A. Edwards, Dr. Laura Sullivan, General Michael McDaniel, Dr. Kelsey Pieper, Professor Jacob Abernethy, Dr. David Reckhow, and David Gabanic. This shared information may contain controlled unclassified information, including Personally Identifiable Information (PII) of individuals affected by the emergency. Consistent with federal law and the EPA's Privacy Policy (CIO Policy 2151.0), the signatories agree that such documents or other records shall be handled in accordance with the following terms:

- a. As used in this Agreement, the term "controlled unclassified information" means: (1) personally identifiable information, as defined in EPA's Privacy Policy, or (2) records that would be exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552)(FOIA), including information such as "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" that is subject to Exemption 6 and EPA's regulations at 40 CFR Part 2 (FOIA). PII includes names, street or mailing addresses, phone numbers, email addresses, and any other contact information that is used to locate and identify individual residents.
- b. Specifically, by this Agreement, EPA intends that PII obtained by EPA and provided to the signatories be maintained in a manner consistent with EPA's Privacy Policy (CIO Policy 2151.0), and specifically, the privacy controls issued by National Institute of Standards and Technology (NIST) Special Publication 800-53 to protect PII.
- c. No provision within this Agreement constitutes a determination of whether or not information has been deemed to be releasable to the public under FOIA or other federal law or regulation. This Agreement is to be read and applied consistent with FOIA and other federal laws and regulations. See 5 U.S.C. § 552; and 42 U.S.C. § 300(i).

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- d. Any information to be provided by EPA to the signatories that contains PII shall be labeled "Controlled Unclassified Information – PII", or otherwise appropriately labeled. EPA will, to the extent practicable, label each page of each document or record prior to production to each signatory.
- e. Information designated as controlled under this Agreement shall not be used by the Recipients for any purpose other than to fulfil the requirements of the SDWA 1431 Order or meet any obligations to protect public health under SDWA. The Recipients agree that information handling continues pursuant to the terms of the Order, including, but not limited to, Paragraphs 68 and 76.
- f. Each signatory shall take all necessary and appropriate measures to comply with the terms of this Agreement. If applicable, each signatory shall share information designated as controlled PII *only* with persons authorized to receive it within their respective organizations and pursuant to the information-sharing provisions set forth herein, and shall retain the information in a secure manner consistent with EPA's Privacy Policy for maintenance of PII and specifically, the privacy controls issued by National Institute of Standards and Technology (NIST) Special Publication 800-53 to protect PII.
- g. All records released under this MOA to the signatories by EPA are EPA records and must be handled consistent with EPA Privacy Policy and federal law. Once the Emergency has ended, all records and copies of records shall be returned to EPA upon demand. If any signatory receives a request or demand for any record(s) it has received through this MOA, the signatory shall immediately notify EPA. EPA will provide direction on how to proceed regarding the request or demand.
- h. Signatories will promptly report breaches of PII, unauthorized disclosures or releases and system vulnerabilities to EPA in accordance with Agency policies and procedures.
- i. All copies, duplicates, extracts, etc. of information designated as controlled hereunder shall be subject to the same terms set forth herein to the same extent and manner as the original documents.

This Agreement is effectively immediately upon the date of each signature of the designated representative below.

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SIGNATORY AUTHORITIES

David Gabanic
Student Grantee
Office of Research and Development
Cincinnati, Ohio

Date