

BARBARA BOXER, CALIFORNIA, CHAIRMAN

MAX BAUCUS, MONTANA
THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
TOM UDALL, NEW MEXICO
JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK
CORY A. BOOKER, NEW JERSEY

DAVID VITTER, LOUISIANA
JAMES M. INHOFE, OKLAHOMA
JOHN BARRASSO, WYOMING
JEFF SESSIONS, ALABAMA
MIKE CRAPO, IDAHO
ROGER WICKER, MISSISSIPPI
JOHN BOOZMAN, ARKANSAS
DEB FISCHER, NEBRASKA

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BETTINA POIRIER, MAJORITY STAFF DIRECTOR
ZAK BAIG, REPUBLICAN STAFF DIRECTOR

March 11, 2014

The Honorable Bob Perciasepe
Assistant Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Assistant Administrator Perciasepe:

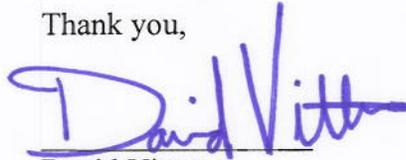
Pursuant to the agreement made during the confirmation process for Gina McCarthy to be EPA Administrator, I am following-up on the status of the U.S. Environmental Protection Agency's (EPA) commitment to incorporate standards for the de-identification of personal health information (PHI) included in the underlying data of studies relied upon by the Agency in justifying multiple Clean Air Act (CAA) rulemakings. This agreement was made with the understanding that EPA would work to facilitate independent verification of the data justifying EPA's scientific claims under the Clean Air Act. As you are well aware, part of the negotiated agreement for EPW Republicans to stop blocking now-Administrator McCarthy was in exchange for EPA initiating the process of developing guidance, as well as reaching out to relevant institutions, on how to de-identify and code personally identifying information from health studies. After months of negotiations, on July 9, 2013, you personally agreed in writing to initiate the process for adopting guidance to protect PHI.

One of EPA's decades-long excuses for denying the release of important data was that it contained personal information and could jeopardize the confidentiality of individuals in two cohorts included in the Harvard Six Cities and American Cancer Society studies on which EPA relies to justify the majority of its Clean Air Act regulations. I am glad that during Administrator McCarthy's nomination process, EPA agreed to work towards readily available and accepted standards to protect PHI and eliminate concerns with the Agency's use of "secret science." Part of EPA's responsibility was determining if disclosure of certain data "would constitute a clearly unwarranted invasion of personal privacy." As the input and output files are fundamental to conducting reanalysis, I repeatedly requested that EPA: (1) obtain all the data files; (2) determine which data files pose a threat to privacy; (3) immediately release all data files that do not pose a threat to privacy; and (4) investigate measures to remove all personal health information from the files that contain confidential data prior to release. By this letter I am asking for the exact status of EPA's review and adoption of procedures for de-identification.

EPA's effort pursuant to our agreement is not a novel undertaking. As we discussed during the nomination process, the U.S. Department of Health and Human Services recently issued guidelines on how to de-identify medical records in order to implement elements of the new healthcare law. Additionally, EPA itself worked with the Centers for Disease Control and Prevention (CDC) to remove personal identifiers from data provided by Harvard University and

released information on deaths originally obtained from the National Death Index (NDI), providing evidence that data containing personal information can be de-identified and released. At this time, we are eight months into your completing your part of the agreement to accept and adopt similar standards. Accordingly, I would like to know the exact status of your adopting such procedures and if I personally need to engage additional institutions, pursuant to our discussions, so that EPA receives additional guidance to fulfill its commitment to EPW Republicans.

Thank you,

A handwritten signature in blue ink that reads "David Vitter". The signature is stylized with a large, looped "D" and a long, sweeping underline.

David Vitter
Ranking Member
Environment and Public Works Committee