

# United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

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

## IMMEDIATE ATTENTION REQUESTED

May 16, 2013

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

The Honorable Gina McCarthy  
Assistant Administrator, Office of Air and Radiation  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Dear Acting Administrator Perciasepe and Assistant Administrator McCarthy:

Thank you for the letter of yesterday committing to significant steps forward with regard to all five of the transparency requests of the Senate EPW Committee Republicans.

Because these steps forward are significant, we want to thank you and acknowledge progress, including by moving forward with the Committee mark-up of Gina's nomination.

Because these steps forward are limited, and do not include everything required under the law, we want to request additional progress as outlined below. Should major additional progress be made in all of the five categories over the next two weeks, I will strongly support handling the McCarthy nomination on the Senate floor without a cloture vote or any 60 vote threshold. Should all of our requests in the five categories be granted, I will support the McCarthy nomination.

### 1. Email and FOIA Policy

Agreed: EPA will mandate re-training of their workforce on records management and employee use of personal email accounts and committed to issuing new guidance pending completion of the Inspector General's audit.

Follow-Up Request: Incorporate into your new FOIA policy measures to ensure that different groups are not treated differently based on their political ideology, a current EPA practice that was revealed clearly this week.

### 2. Unredacted Emails

Agreed: Ms. McCarthy reviewed her personal email accounts and reported back that she had not used it for Agency-related matters. EPA will provide partial delivery of emails requested by EPW and House Committee on Oversight and Government Reform.

Follow-Up Request: Full delivery of the remaining unredacted emails at issue.

**3. Underlying Research Data**

Agreed: EPA commits to engage with the relevant research institutions and researchers to work towards obtaining the requested materials.

Follow-Up Request: Immediate delivery of documents which have never involved personal identifying information and full follow-through on your commitments regarding other data.

**4. Economic Analysis**

Agreed: EPA will work with the Science Advisory Board and existing Federal Advisory Committee to establish and expert panel to advise the Agency on the use of whole economy modeling.

Follow-Up Request: Convene a separate panel of economic experts with significant private sector experience in whole economy modeling at the macro and micro level, including granular analysis of regulatory impact and full causalities/ripple effects, and adopt the recommendations of this panel.

**5. “Sue-and-Settle”**

Agreed: EPA commits to post notices of intent on the EPA website as well as commits to establishing a website to post petitions for rulemaking submitted to the Agency.

Follow-Up Request: Give intervenors immediate notice of any initiation of settlement discussions that come from legal actions brought against the Agency.

I believe the above outlines a very productive path forward. I hope you concur by agreeing to travel down it.

Sincerely,



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David Vitter  
Ranking Member