United States Senate
WASHINGTON, DC 20510

September 17, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Ms. McCarthy:

We are writing as a follow up to our June 18, 2013, letter[1] regarding the Administration's Interagency Working Group (IWG) 2013 Technical Support Document for the Social Cost of Carbon (SCC).[2] While the Office of Information and Regulatory Affairs (OIRA) replied on your behalf in a July 18, 2013, letter,[3] its reply was not responsive to our inquiry. We asked specific questions regarding the Environmental Protection Agency's (EPA) development and use of SCC estimates that remain unanswered. Further, we have additional concerns with EPA's application of the updated SCC developed by the IWG.

For example, EPA's recently proposed rule for steam electric power generating units[4] illustrates a significant level of confusion associated with the discount rates chosen by the IWG to calculate the SCC. The Office of Management and Budget (OMB) Circular A-4 instructs federal agencies to apply a 7 percent discount rate as a baseline for regulatory analyses, as well as a 3 percent discount rate.[5] However, the IWG's calculation of the SCC ignores Circular A-4 by only applying discount rates of 2.5, 3, and 5 percent. Nowhere in the document did the IWG provide an estimate of the SCC using a 7 percent discount rate; yet OIRA indicates the IWG at least considered the 7 percent discount rate.[6]

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[1] Letter from Sen. Vitter, et al., to Gina McCarthy, Assistant Adm'r, Office of Air and Radiation, Envtl. Prot. Agency (June 18, 2013).
[2] Interagency Working Group on Social Cost of Carbon, *Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866*, U.S. GOV'T (May 2013), http://www.whitehouse.gov/sites/default/files/omb/inforeg/social_cost_of_carbon_for_ria_2013_update.pdf.
[3] Letter from Howard Shelanski, Adm'r, Office of Information and Regulatory Affairs, to Sen. Vitter, et al. (July 18, 2013).
[4] Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category, 78 Fed. Reg. 34432 (June 7, 2013), *available at* http://www.gpo.gov/fdsys/pkg/FR-2013-06-07/pdf/2013-10191.pdf.
[5] OFFICE OF MGMT. & BUDGET, CIRCULAR A-4: REGULATORY ANALYSIS 34 (2003), *available at* http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf
[6] *See* OIRA Response Letter, *supra* note 2. "Using a 7 percent discount rate in this context would suggest that there is effectively no consideration of the impact of carbon emissions on future generations."

In the proposed rule, EPA presented the benefits of reduced nitrogen oxide, sulfur dioxide, and carbon dioxide in accordance with Circular A-4 by using discount rates of 3 and 7 percent.[7] However, EPA included a footnote that states the Agency estimated the SCC based on a 5 percent discount rate "to estimate values presented for the 7 percent discount rate." In effect, the annualized benefits from reduced nitrogen oxide, sulfur dioxide, and carbon dioxide emissions that EPA accredits to the rule appear to be distorted by using the IWG's SCC estimates.

While the proposed rule provides one example of EPA's questionable use of the SCC in its cost-benefit analyses, we question how the Agency will apply the estimates to carry out President Obama's Climate Action Plan.[8] In particular, the President called for the EPA to propose greenhouse gas new source performance standards (NSPS) for newly constructed coal- and natural gas- fired power plants as well as for existing power plants.[9]

Given the outstanding questions concerning EPA's specific role in the development of the SCC and its application of SCC calculations, we request that you respond to the following:

1. What EPA officials participated in the IWG that developed the 2010 and 2013 SCC values? Please explain the involvement of each EPA official participating in the IWG and the process by which recommendations offered by EPA to the IWG were approved.

2. Were the FUND, DICE, and PAGE models peer reviewed for the purpose of determining the value of the SCC for the United States? Did EPA review the models to ascertain the validity of the assumptions used or if the damage functions used have solid theoretical or empirical foundation? Did EPA consider alternative models to the FUND, DICE, and PAGE models? If so, please provide a list of all models considered.

3. What procedures were followed by EPA during the IWG process so as to comport with the Agency's own peer review and data quality guidelines? Which of EPA's guidelines were not followed?

4. In 2010, EPA's Office of Inspector General (OIG) found serious flaws in the peer review and evaluation of outside assessments used in the Agency's greenhouse gas endangerment finding. In order to satisfy the OIG's recommendation that minimum review and documentation requirements for assessing and accepting existing scientific and technical data from other organizations be established, EPA drafted an

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[7] Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category, 78 Fed. Reg. 34432, 34517 (June 7, 2013), *available at* http://www.gpo.gov/fdsys/pkg/FR-2013-06-07/pdf/2013-10191.pdf.
[8] *Id.*
[9] EXECUTIVE OFFICE OF THE PRESIDENT, *The President's Climate Action Plan* (June 2013), http://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf.

addendum to its existing guidance. In developing the SCC, please explain how the EPA complied with the December 2012 addendum to Guidance for Evaluating and Documenting the Quality of Existing Scientific and Technical Information.

5. Did EPA develop its own science/data for the underlying scientific support for determining the 2013 adjustment in the SCC? Did EPA develop its own science/data for the underlying scientific support for determining the 2010 SCC estimates?

6. Did EPA consult with any non-governmental personnel during the IWG discussions and development of the SCC estimates? If so, please provide a list of all non-governmental personnel consulted.

7. Prior to the 2010 SCC estimates, how did EPA estimate the SCC?

8. Please provide a list of rules – proposed or final – in which EPA has used the SCC developed by the IWG, including rules that applied the SCC estimates as determined by the IWG in 2010.

9. Please provide a list of rules in which the EPA intends to use the updated SCC.

10. Has EPA ever deviated from a primary estimate based on the U.S. domestic value as prescribed by OMB Circular A-4? If so, please provide a list of all EPA rules that have deviated as such. Similarly, please provide a list of all EPA regulatory actions that deviated from Circular A-4's and Circular A-94's prescription to use a 7 percent discount rate as the base-case estimate in regulatory impact analysis (RIA).

11. Has OMB provided EPA guidance on how and when the SCC estimates should be applied? Has OMB provided EPA guidance on the use of the updated SCC in RIAs? For example, how such values should be applied for estimating costs of treatment technologies or methods that increase energy use, and for disbenefits associated with those requirements?

12. In developing the SCC estimate, how did the IWG account for benefits associated with the activities that rely upon energy use that results in carbon dioxide emissions?

13. Did the EPA support the decision to update the model estimates for the 2013 SCC? If not, please explain the EPA's position regarding the adequacy of the models' updated estimates.

14. Does EPA support the decision to update estimates for the 2013 SCC by inserting them into a rule's RIA at the final rule stage, which did not allow the public to comment meaningfully upon them? If not, please explain how EPA worked to protect the integrity of administrative procedure in the IWG process.

Thank you for your prompt attention to this matter. We respectfully request your responses by September 30, 2013.

Sincerely,

David Vitter
U.S. Senator

Jeff Sessions
U.S. Senator

James Inhofe
U.S. Senator

John Boozman
U.S. Senator

Roy Blunt
U.S. Senator

John Barrasso
U.S. Senator

Roger Wicker
U.S. Senator