ORAL ARGUMENT NOT YET SCHEDULED
No. 26-1168 and consolidated cases

IN THE
United States Court of Appeals for the District of Columbia Circuit

HEATING, AIR CONDITIONING & REFRIGERATION DISTRIBUTORS INTERNATIONAL, *et al.*,

Petitioners,

– v. –

ENVIRONMENTAL PROTECTION AGENCY *and* LEE M. ZELDIN, in his official capacity as Administrator of the U.S. Environmental Protection Agency, *et al.*,

Respondents,

On Petition for Review of Agency Action by the Environmental Protection Agency
91 Fed. Reg. 31,284 (May 26, 2026)

PROOF BRIEF OF THE INSTITUTE FOR POLICY INTEGRITY AT NEW YORK UNIVERSITY SCHOOL OF LAW AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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CIRCUIT RULE 28(A)(1) STATEMENT

As required by Circuit Rule 28(a)(1), counsel for the Institute for Policy Integrity at New York University School of Law certify as follows:

(1) All parties, amici, and intervenors appearing in this case are listed in Petitioners' opening briefs.

(2) References to the final agency action under review appear in Petitioners' opening briefs.

(3) Related and consolidated cases appear in Petitioners' opening briefs.

RULE 26.1 DISCLOSURE STATEMENT

The Institute for Policy Integrity (Policy Integrity) is a nonpartisan, not-for-profit organization at New York University School of Law.* No publicly held entity owns an interest in Policy Integrity. Policy Integrity does not have any members who have issued shares or debt securities to the public.

* This brief does not purport to represent the views, if any, of New York University School of Law.

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GLOSSARY OF ACRONYMS & ABBREVIATIONS

Pursuant to Circuit Rule 28(a)(3), the following is a glossary of acronyms and abbreviations used in this brief:

2023 Rule	Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under the American Innovation and Manufacturing Act of 2020 88 Fed. Reg. 73,098 (Oct. 24, 2023)
AIM Act	American Innovation and Manufacturing Act
APA	Administrative Procedure Act
EPA	Environmental Protection Agency
Final Rule	Phasedown of Hydrofluorocarbons: Reconsideration of Certain Regulatory Requirements Promulgated Under the Technology Transitions Provisions of the American Innovation and Manufacturing Act of 2020, 91 Fed. Reg. 31,284 (May 26, 2026)
HFC	Hydrofluorocarbon
Impacts Analysis	Memorandum: Analysis of Economic and Environmental Impacts – Phasedown of Hydrofluorocarbons: Reconsideration of Certain Regulatory Requirements Promulgated Under the Technology Transitions Provisions of the American Innovation and Manufacturing Act of 2020, EPA-HQ-OAR-2025-0005-0520-01
SC-GHG	Social cost of greenhouse gases

INTEREST OF *AMICUS CURIAE* & AUTHORITY TO FILE

The Institute for Policy Integrity at New York University School of Law (Policy Integrity) is a nonpartisan think tank dedicated to improving the quality of government decisionmaking through advocacy and scholarship in administrative law, economics, and public policy.[1]

Policy Integrity has produced extensive scholarship on the balanced use of economic analysis in agency decisionmaking. Our faculty director, Richard L. Revesz, is among the nation's most cited administrative and environmental law scholars, having published more than 100 articles and books. *E.g.*, Richard L. Revesz & Michael A. Livermore, *Retaking Rationality: How Cost-Benefit Analysis Can Better Protect the Environment and Our Health* (2008).

Much of Policy Integrity's work focuses on valuing climate damages. Our economics director, Peter Howard, is one of the nation's leading experts on valuing climate-change effects. Government bodies have widely applied his work: For example, the Environmental Protection Agency (EPA) used his research to estimate the monetized

[1] Per Federal Rule of Appellate Procedure 29(a)(4)(E), no party's counsel authored this brief wholly or partly, and no person contributed money intended to fund its preparation or submission.

harm from greenhouse gases. EPA, Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances (2023) (SC-GHG Report). Moreover, Policy Integrity's Economic Policy Director Al McGartland served as EPA's lead economist from 2005–2025, overseeing EPA's development of climate damage estimates.

The final rule at issue here (Final Rule) directly implicates this expertise. The Final Rule, promulgated under the American Innovation and Manufacturing Act (AIM Act), relieves certain restrictions on hydrofluorocarbons (HFCs), which EPA had imposed through prior regulation (the 2023 Rule). Policy Integrity filed comments on the proposed rollback, criticizing EPA's disregard for climate effects. Inst. for Pol'y Integrity, Comments on Phasedown of Hydrofluorocarbons: Reconsideration of Certain Regulatory Requirements Promulgated Under the Technology Transitions Provisions of the American Innovation and Manufacturing Act of 2020 (Nov. 20, 2025) (Policy Integrity Comments), J.A. ___.

We submit this brief to aid the Court in evaluating Petitioners' arguments that (1) EPA's consideration of the Final Rule's climate harms

is both contrary to law and arbitrary and capricious and (2) the Final Rule's effective date is contrary to law.

All parties consented to the filing of this brief.

SUMMARY OF ARGUMENT

I. The AIM Act requires EPA to consider environmental impacts using the best available data. In the Final Rule, EPA does not do so.

In particular, EPA ignores the Final Rule's climate impacts. The agency acknowledges that the Final Rule will increase emissions of climate-changing HFCs—the very pollutants the AIM Act addresses. Yet estimating tons of emissions is not the same as considering their real-world impacts. EPA offers no quantitative or qualitative analysis of real-world effects like flooding, agricultural losses, and human mortality. Nor does EPA compare the damage caused to the costs saved. In promulgating the 2023 Rule, by contrast, EPA applied multiple quantitative and qualitative analyses to consider how HFC emissions would harm the climate, economy, and human health and to compare these impacts to other regulatory effects. The Final Rule's failure to do so renders it unlawful.

Compounding matters, EPA arbitrarily disregards its own longstanding tool for evaluating the severity of climate impacts: the social cost of greenhouse gases (SC-GHG). In one short paragraph, EPA states that such calculations are too uncertain to use in the Final Rule. But EPA developed the SC-GHG through a rigorous, peer-reviewed process that addressed every source of uncertainty that EPA now cites. By brushing aside the peer-reviewed SC-GHG estimates without offering any alternative data or methodology to assess environmental effects, EPA fails to apply the best available data.

II. The Final Rule is also arbitrary and capricious, for similar reasons. EPA ignores the central issue of climate damages, adopts a rule that does significantly more harm than good, inconsistently evaluates the rule's benefits and costs by putting a thumb on the scale for deregulation, and fails to justify its change of position concerning the SC-GHG.

III. Separately, the Final Rule's effective date is unlawful. EPA made the Final Rule effective just 60 days after publication, rather than one year after as the AIM Act requires. EPA rejects the statute's plain meaning on the grounds that it leaves surplusage. But the canon against surplusage must yield when a statute's meaning is otherwise clear, and

EPA's strained reading introduces confusion and inconsistency. The AIM Act's structure and history likewise support a one-year delay.

ARGUMENT

I. EPA Violated The AIM Act By Inadequately Considering The Final Rule's Climate Impacts.

"[A]gency action is lawful only if it rests 'on a consideration of the relevant factors.'" *Michigan v. EPA*, 576 U.S. 743, 750 (2015) (quoting *Motor Vehicle Mfrs. Ass'n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). Even when statutes afford agencies discretion, agencies must act within "the boundaries of the delegated authority" and engage in "reasoned decisionmaking within those boundaries." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 395 (2024) (cleaned up). The AIM Act expressly identifies the "Factors for determination" relevant here: EPA "shall, to the extent practicable, factor in" "the best available data" and "overall economic costs and environmental impacts, as compared to historical trends." 42 U.S.C. § 7675(i)(4)(A), (C).

EPA violates these statutory limitations by offering no meaningful analysis of the Final Rule's actual environmental effects. In the process, EPA also fails to consider "the best available data" by arbitrarily

discarding its own peer-reviewed tool for estimating the rule's climate impacts.

A. EPA does not acknowledge, much less consider, the Final Rule's actual climate impacts.

EPA suggests that it fulfilled its statutory requirements by estimating "emissions impacts," Final Rule, 91 Fed. Reg. 31,284, 31,325 (May 26, 2026), and by "qualitatively weigh[ing] environmental benefits," *id.* at 31,326. But EPA provides only bare estimates of changes in the volume of emissions. Unlike in the 2023 Rule, EPA offers no quantitative or qualitative consideration of those emissions' real-world effects. Simply put, there is no evidence that the Final Rule "weighs" or "factors" the "environmental impacts" of HFC emissions.

EPA estimates that, through 2050, the Final Rule will cause HFC emissions equivalent to over 68 million metric tons of carbon dioxide. *See* EPA, Memorandum: Analysis of Economic and Environmental Impacts – Phasedown of Hydrofluorocarbons: Reconsideration of Certain Regulatory Requirements Promulgated Under the Technology Transitions Provisions of the American Innovation and Manufacturing Act of 2020, 15 tbl. ES–7 (2026) (Impacts Analysis), J.A. ___; Br. of Nat. Res. Def. Council & State & Local Gov't Pet'rs 24–25 (NRDC & States'

Br.) (explaining how the Final Rule will cause emissions increases despite the statutory cap).

To begin, EPA disclaims relying on any part of the Impacts Analysis "as a record basis for the final action." Final Rule, 91 Fed. Reg. at 31,287. Thus, even this meager attention to tonnage cannot count toward satisfying EPA's statutory obligations.

More fundamentally, estimating tons of emissions is not the same as considering their impacts. By itself, a quantity of tons provides no meaningful information about the Final Rule's real-world effects. HFC emissions will *cause* environmental effects, such as increased risks of flooding, agricultural losses, and human mortality. Bare tonnage estimates do not capture that. For instance, as EPA implicitly recognizes, they do not capture "the magnitude of the change in climate due to a change in GHG emissions," or "the relationship between changes in the climate and the economy and, therefore, the resulting economic impacts." Impacts Analysis at 4, J.A. ___; *see also id.* at 6, tbl. ES-2 (noting that the environmental impacts are the "*[f]orgone benefits from* potential increased emissions of HFCs," and not merely the emissions themselves) (emphasis added).

Yet EPA fails to undertake any further qualitative or quantitative analysis to assess the scope and significance of those real-world effects. Nowhere does the Final Rule even mention the real-world effects of greenhouse emissions. The rule's preamble, for example, omits reference to any of the well-established physical or economic effects of climate change, with terms like "sea level," "heat wave," "storms," "floods," "drought," "precipitation," "mortality," "disease," and "agriculture" nowhere to be found. *Compare* Final Rule (containing none of those terms) *with* 2023 Rule, 88 Fed. Reg. 73,098 (Oct. 24, 2023) (containing all those terms). In short, EPA quantifies emissions but does not consider "the meaning of those impacts in terms of human health or other environmental values." *See Nat. Res. Def. Council, Inc. v. U. S. Nuclear Regul. Comm'n*, 685 F.2d 459, 486 (D.C. Cir. 1982), *rev'd on other grounds sub nom., Balt. Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87 (1983).

The Final Rule's omission is particularly glaring when juxtaposed against the 2023 Rule's thorough and diverse assessments of environmental effects. The 2023 Rule applied qualitative, quantitative, and monetized assessments of how its HFC reductions would contribute

to environmental benefits. The 2023 Rule also compared its environmental benefits to its costs.

First, on a qualitative level, EPA introduced the 2023 Rule by answering "How do HFCs affect public health and welfare?" 2023 Rule, 88 Fed. Reg. at 73,104–05. The 2023 Rule described in detail how greenhouse gases like HFCs contribute to "heat waves, precipitation, and extreme weather events; rising seas; and retreating snow and ice." *Id.* at 73,104–06 (describing climate change); *id.* at 73,105 n.23 (citing EPA's "Climate Change Indicators in the United States" resource, which provides maps, figures, and narratives on "more than 50 indicators that show the causes and effects of climate change"[2]). In subsequent sections, the 2023 Rule also qualitatively assessed how HFC reductions may especially benefit community access to climate-sensitive "water and food supplies," as well as the rule's potential implications on cancer and respiratory risks facing communities living near facilities that produce HFC substitutes. *Id.* at 73,198–203; *see also* EPA, Regulatory Impact Analysis Addendum: Impact of the Technology Transitions Rule 81–97,

[2] Available in the rulemaking docket at https://www.regulations.gov/document/EPA-HQ-OAR-2021-0643-0228.

152–73 (2023). The Final Rule contains no text remotely like the 2023 Rule's qualitative treatment of environmental factors.

Next, EPA quantitatively assessed the 2023 Rule's environmental benefits. EPA did not just estimate the 2023 Rule's tons of emissions reductions, 2023 Rule, 88 Fed. Reg. at 73,100 & tbl. 1, but also compared those reductions to the AIM Act's overarching emission-reduction goal, *id.* at 73,100 (estimating incremental emissions reductions up to "20 percent of the total" anticipated from its prior rule implementing the AIM Act's schedule of reductions); *see also id.* at 73,198 (calculating the percent of total reductions relating to imports, to help convey "the scope of the benefits"). By assessing the rule's emissions reductions relative to the statutory schedule of total HFC reductions, the 2023 Rule provided a quantitative assessment of the scale of environmental effects. The Final Rule, by contrast, reflects no effort to contextualize the raw tonnage of emissions increases.

Additionally, the 2023 Rule applied the SC-GHG to concretely estimate how HFC reductions benefit a range of environmental outcomes, including "changes in net agricultural productivity, human health effects, property damage from increased flood risk and natural

disasters, [and] disruption of energy systems." *Id.* at 73,196. Crucially, these monetary estimates captured how each additional ton's impacts *change over time*: "the societal harm from one metric ton emitted in 2030 is higher than the harm caused by one metric ton emitted in 2025—because future emissions produce larger incremental damages as physical and economic systems become more stressed." *Id.* All told, EPA concluded that the 2023 Rule's climate benefits through the year 2050 were worth up to $50.4 billion. *Id.*[3] The Final Rule does not even mention—let alone numerically evaluate—specific effects on agriculture, health, or property. Nor does it explain that the estimated increase of 3.6 million metric tons of carbon-dioxide-equivalent emissions for the year 2032 and every subsequent year *will cause more climate damages than the same amount emitted the year before*. *See* Impacts Analysis 11, tbl. ES-6, J.A. ___ (showing increased emissions of 3.6 MMTEVe in each year from 2031 to 2044).

[3] Though EPA insisted these monetized climate benefits "were not used for decisional purposes," it provided these figures for "informational and illustrative purposes." 2023 Rule, 88 Fed. Reg. at 73,198. Along with the 2023 Rule's extensive qualitative discussion and quantitative comparisons of relative reductions, monetization was one way the 2023 Rule "illustrat[ed]" the scope of overall environmental effects.

Finally, the 2023 Rule compared its monetized climate benefits to its costs. EPA found that the benefits greatly exceeded the costs under every scenario it analyzed, with net benefits ranging from $5 billion to $52 billion. 2023 Rule, 88 Fed. Reg. at 73,101 tbl.2.[4] The Final Rule, by contrast, never weighs its climate harms against its alleged cost-savings or asks whether those savings justify the damage.

In short, the Final Rule's barebones estimate of additional tons of emissions does not come close to satisfying EPA's obligation to consider "environmental impacts" to "the extent practicable." 42 U.S.C. § 7675(i)(4)(C). EPA has not meaningfully explained why its detailed analyses in 2023 were not "practicable" in 2026.

B. EPA fails to use the "best available data" by arbitrarily ignoring its own tool for estimating climate damages.

Defending its meager analysis, EPA asserts that "[t]he AIM Act does not require the quantification or monetization of [greenhouse gas] impacts." Final Rule, 91 Fed. Reg. at 31,325. But the AIM Act does require that EPA consider the "best available data." 42 U.S.C. § 7675(i)(4)(A). And for nearly two decades—including in promulgating

[4] EPA found that the 2023 Rule would produce negative costs—i.e., cost savings. 2023 Rule, 88 Fed. Reg. at 73,101 tbl.2.

the 2023 Rule—EPA has assessed climate impacts using the SC-GHG. In the Final Rule, EPA refuses to apply those peer-reviewed estimates and offers no alternative data or methodology to assess environmental effects. By abandoning the SC-GHG in just a few unreasoned sentences, EPA violates the AIM Act.

1. Valuing climate impacts is well established in economics and regulatory practice.

The SC-GHG reflects the estimated "monetary value of the net harm to society from emitting a metric ton of that [gas] into the atmosphere." SC-GHG Report, *supra*, at 1. It enables regulators to compare a rule's climate impacts to other monetized effects such as compliance costs.

The first climate-damage estimates date back to the 1990s. *See id.* at 6, 7 n.12. For that work, Yale University professor Dr. William Nordhaus earned the Nobel Prize in Economics. *William D. Nordhaus*, The Nobel Prize, https://perma.cc/L7W5-C6HT.

Federal agencies started using such estimates in the 2000s, after the U.S. Court of Appeals for the Ninth Circuit found a rule arbitrary and capricious because the agency failed to value the rule's climate impacts. Interagency Working Grp. on Soc. Cost of Greenhouse Gases, Technical

Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide 2 (2021), https://perma.cc/DQQ4-X98H; *see also Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1198–1203 (9th Cir. 2008). The White House convened an interagency working group in 2009 to "ensure that agencies were using the best available science and to promote consistency in the values used across agencies." Interagency Working Grp. on Soc. Cost of Greenhouse Gases, *supra*, at 2. This working group released its first estimates in 2010 and periodically updated them to reflect scientific and economic advances. *Id.* at 2. In a 2016 review of the methodology, the National Academies of Sciences, Engineering, and Medicine (National Academies) found that those estimates were based on the "most widely cited" peer-reviewed models and inputs available. Nat'l Acads. of Scis., Eng'g & Med., *Assessment of Approaches to Updating the Social Cost of Carbon: Phase 1 Report on a Near-Term Update* 4 (2016). In 2021, EPA extended its methodology to value the social cost of HFCs. SC-GHG Report at 7 n.13 (summarizing the development of SC-HFC estimates). Across three presidential

administrations—including the first Trump Administration[5]—agencies valued the climate impacts of their rules. *Id.* at 8–9.

The 2023 Rule was no exception. Relying on then-current SC-GHG estimates, EPA concluded that the present-value net benefits of the 2023 Rule, calculated through 2050, ranged from $5 billion (based on the low-end estimate of the rule's emissions) to $52 billion (based on the high-end emissions estimate). 2023 Rule, 88 Fed. Reg. at 73,101 tbl. 2. Yet as EPA acknowledged, these SC-GHG estimates "likely underestimate[d] the damages from GHG emissions," and updated estimates were in development to better "reflect[] the latest, peer reviewed science." *Id.* at 73,198.

Shortly after promulgating the 2023 Rule, EPA published updated climate-damage values. These updates reflected both economic and scientific advances and recommendations from the National Academies. SC-GHG Report, *supra*, at 1. To ensure the rigor and impartiality of its estimates, EPA took public comment on its draft estimates and subjected

[5] The first Trump administration disbanded the working group and withdrew its publications. Exec. Order No. 13,783 §§ 5(b)–(c), 82 Fed. Reg. 16,093, 16,095–96 (Mar. 28, 2017). But it continued monetizing climate impacts with revised SC-GHG estimates that amended certain parameters.

them to peer review. *Id.* at 3 & n.1. The choice of peer reviewers itself involved a rigorous process: EPA solicited nominations from the public and tasked an independent contractor with the selection, yielding seven eminently qualified experts, *see* Request for Nominations of Experts, 87 Fed. Reg. 3801, 3802 (Jan. 25, 2022); EPA, Final Comments Summary Report 4 (2023), https://perma.cc/YK5G-F4UF) (Peer Review Report) (listing reviewers' qualifications).

The results reflected the best available science and economics. The expert peer reviewers lauded the estimates as a "huge advance," *id.* at 7 (comments of Dr. Maureen Cropper), and a "significant step," *id.* at 9 (Dr. Chris Forest), emphasizing that they "advanc[e] our state of knowledge," *id.* at 14 (Dr. Wolfram Schlenker), and "represent[] well the emerging consensus in the literature," *id.* at 15 (Dr. Gernot Wagner). In 2024, EPA applied this updated, peer-reviewed methodology to produce "a new set of SC-HFC estimates that reflects recent advances in the scientific literature." Phasedown of Hydrofluorocarbons: Management of Certain Hydrofluorocarbons and Substitutes Under the American Innovation and Manufacturing Act of 2020, 89 Fed. Reg. 82,682, 82,834 (Oct. 11, 2024); EPA, Regulatory Impact Analysis Addendum: Analysis of the Economic

Impact and Benefits of the Final Rule: Management of Certain Hydrofluorocarbons and Substitutes Under Subsection (h) 60-61 & App. J (2024) (referencing the "GLOBAL_2023_AIM" file[6] for the complete set of estimates).

2. EPA's climate-damage estimates already addressed the uncertainties that the agency now cites to justify discarding them.

In its (disclaimed) Impacts Analysis, EPA discards its SC-GHG estimates, providing just a single paragraph of explanation that contradicts its extensive prior analysis. EPA cursorily notes six ways that "social cost of carbon values" are "highly uncertain" and thus concludes that it cannot monetize the costs of HFC emissions. Impacts Analysis, *supra*, at 4, J.A. ___. EPA's justification is inadequate. *See* Policy Integrity Comments, *supra*, J.A. ___. EPA's prior climate-damage estimates already rigorously addressed the uncertainties to which the agency now gestures.

First, the Impacts Analysis notes uncertainty around "the magnitude of the change in climate due to a change in [greenhouse gas]

[6] The spreadsheet is an attachment to Docket EPA-HQ-OAR-2022-0606, *available at* https://downloads.regulations.gov/EPA-HQ-OAR-2022-0606-0175/attachment_65.xlsx).

emissions." Impacts Analysis, *supra*, at 4, J.A. ___. EPA's SC-GHG estimates, however, used a widely accepted model developed at Oxford University, called the Finite Amplitude Impulse Response model, that is recognized for its ability to capture uncertainty. SC-GHG Report, *supra*, at 35–36; *see also* Nat'l Acads. of Scis., Eng'g & Med., Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide 13–14 (2017) (National Academies Report). The model captures uncertainty by generating probability distributions for key variables. In other words, it identifies the likelihood of the variable having each plausible value and incorporates these probabilities into the model. *See* National Academies Report, *supra*, at 93 fig. 4-2, 103 fig. 4-5. Using this model, EPA fully incorporated uncertainty about the relationship between greenhouse-gas emissions and the pace and severity of climate change into its climate-damage estimates. *See, e.g.*, SC-GHG Report, *supra*, at 37–38 & tbls. 2.2.1 & 2.2.2 (showing alignment between EPA's results and scientific consensus).

Second, the Impacts Analysis points to the uncertainty concerning the "relationship between changes in the climate and the economy." Impacts Analysis, *supra*, at 4, J.A. ___. But EPA's earlier climate-damage

estimates accounted for that uncertainty too. In those estimates, EPA used three state-of-the-art "damage functions" developed by preeminent economists to "translate changes in temperature and other physical impacts of climate change into monetized estimates of net economic damages." *See* SC-GHG Report, *supra*, at 45, 47. Together, these damage functions capture numerous harms caused by climate change, including effects on health, energy, labor productivity, agriculture, and coastal regions. *Id.* at 52 tbl. 2.3.1, 55 tbl. 2.3.2. Using three peer-reviewed functions, each with different methods for measuring damages, ensured analytical rigor. *See id.* at 46–59; *see also* Peer Review Report, *supra*, at 35–36 (praise from Dr. Cropper). All three models incorporated uncertainty about the relationship between climate change and economic damages—the two primary models through rigorous statistical techniques, *see* SC-GHG Report, *supra*, at 48, 53, and the third by synthesizing results from 20 other damage functions, *see id.* at 57. These three models all produced similar damage estimates. EPA integrated the three modeling results to address any lingering uncertainty among the models. *See id.* at 78–80.

Third, the Impacts Analysis flags uncertainty around "future economic and population growth." Impacts Analysis, *supra*, at 4, J.A. ___. But EPA's own prior climate-damage estimates used advanced statistical techniques to capture this uncertainty. Consistent with the National Academies' recommendations, *see* National Academies Report, *supra*, at 11, EPA used projections developed by leading economists, SC-GHG Report, *supra*, at 23. EPA found that because these projections "represent a state-of-the-art set of probabilistic socioeconomic and emissions scenarios based on high-quality data, robust statistical techniques, and expert elicitation," *id.* at 26, they "capture uncertainty" rigorously, *id.* at 23; *see also id.* at 28 & fig. 2.1.1, 30 & fig. 2.1.2 (visualizing the range of plausible outcomes for economic and population growth).

Fourth, the Impacts Analysis highlights "future technological advancements that would reduce vulnerability and impacts." Impacts Analysis, *supra*, at 4, J.A. ___. Yet EPA already factored such innovations into its prior estimates. Regarding mitigation technologies, EPA's estimates incorporated an expert elicitation that assessed the scale of future negative emissions technologies like direct air capture. *See* SC-GHG Report, *supra*, at 25–26; *see also id.* at 33 fig. 2.1.3 (showing

uncertainty ranges for global emissions that drop below zero this century). EPA's damage functions also accounted for adaptation across economic sectors. *See id.* at 52 tbl. 2.3.1, 55 tbl. 2.3.2. For example, one damage function included "shifts in workforce composition to less weather-exposed industries" that could affect labor productivity and "protective infrastructure" like sea walls that could limit damages in coastal regions. *Id.* at 52 tbl. 2.3.1.

Fifth, the Impacts Analysis refers to uncertainty surrounding the "the share of impacts from [greenhouse gas] emissions that affect citizens and residents of the U.S." Impacts Analysis, *supra*, at 4, J.A. ___. But EPA previously estimated precisely this: "the damages from climate impacts physically occurring within" the United States. SC-GHG Report, *supra*, at 95 (highlighting estimates from two of its damage functions); *see also* Corinne Hartin et al., *Advancing the Estimation of Future Climate Impacts Within the United States*, 14 Earth Sys. Dynam. 1015, 1016 (2023) (discussing another EPA model that estimates U.S. climate damages). Such estimates capture key "channels through which climate change can affect US citizens and residents . . . yet remain a partial estimate." *Id.* at 1026 (emphasizing that climate impacts occurring

abroad also affect U.S. residents and companies due to "the interconnectedness of the global economy"); *see also* SC-GHG Report, *supra*, at 95–96. Even these partial estimates are large. *See, e.g.*, *id.* at 95 nn.142–43.

Sixth, the Impacts Analysis queries "the appropriate discount rates to use." Impacts Analysis, *supra*, at 4, J.A. ___. The story here is the same: EPA's prior estimates rigorously accounted for discounting uncertainty. Discount rates translate impacts that occur at different times into present value, reducing the value of effects that occur later. Off. of Mgmt. & Budget, Circular A-4: Regulatory Analysis 75 (2023). Consistent with the Office of Management and Budget's longstanding approach, *see id.* at 76–77; Off. of Mgmt. & Budget, Circular A-4: Regulatory Analysis 33–34 (2003) (2003 Circular A-4), EPA based its near-term discount rate of 2% on interest rate data (specifically, the return on Treasury yields) from the past 30 years, SC-GHG Report, *supra*, at 67 & n.117. EPA followed the National Academies' recommendation to include a range of discount rates to capture uncertainty. *Id.* at 70; *see also* National Academies Report, *supra*, at 19. Recognizing that the discount rate may fluctuate over time, and again

following the National Academies' recommendation, EPA also used a widely embraced statistical approach called the Ramsey formula to capture the range of plausible long-term discount rates. SC-GHG Report, *supra*, at 64–66; *see also id.* at 72 fig. 2.4.1; National Academies Report, *supra*, at 18. For this, EPA earned praise from expert reviewers. *See, e.g.*, Peer Review Report, *supra*, at 48 (comments of Dr. Karen Fisher-Vanden).

Two last points merit emphasis. Even after the 2023 updates, EPA found that uncertainty points to higher, not lower, climate-damage values. Notably, EPA's SC-GHG estimates focus on the effects of temperature changes but exclude damages from other climate processes such as extreme weather and precipitation. *See* SC-GHG Report, *supra*, at 87 tbl. 3.2.1. Due to data and modeling limitations, the damage functions also omit some key temperature-driven impacts, such as effects on supply chains, migration, wildfire smoke, and water access. *Id.* EPA's climate-damage estimates therefore likely "underestimate the marginal damages from [greenhouse gas] emissions." *Id.* at 86.

In addition, *all* future projections—not just those involving climate change—are uncertain. Thus, "treatment of uncertainty is an essential

component of [any] analysis" that agencies conduct. EPA, Guidelines for Preparing Economic Analyses 5-29 (3d ed. 2024). EPA's guidelines instruct the agency to present uncertain outcomes "based on expected or most plausible values." *Id.* Interagency guidance contains similar instructions. *E.g.*, 2003 Circular A-4, *supra*, at 40–41. This Court, too, has recognized that "[r]egulators by nature work under conditions of serious uncertainty, and regulation would be at an end if uncertainty alone were an excuse" not to regulate. *Pub. Citizen v. Fed. Motor Carrier Safety Admin.*, 374 F.3d 1209, 1221 (D.C. Cir. 2004).

In fact, in the 2008 case that prompted federal agencies to adopt climate-damage estimates in the first place (mentioned above), the Ninth Circuit squarely rejected the same uncertainty-based argument that EPA now makes. *Ctr. for Biological Diversity*, 538 F.3d at 1200–01. There, the court emphasized that "while the record shows that there is a range of values, the value of carbon emissions reduction is certainly not zero." *Id.* at 1200.

The Ninth Circuit also criticized the defendant agency for valuing other uncertain regulatory effects, like congestion costs and energy security, while claiming climate benefits were too uncertain to value. *Id.*

at 1202. Here, too, EPA valued the Final Rule's uncertain compliance cost-savings while declining to value climate damages. Impacts Analysis, *supra*, at 18, 63–67, J.A. ___ (estimating a wide range of cost-savings, while noting "inherent[] uncertain[ty]"). In doing so, EPA "put a thumb on the scale by undervaluing the [forgone] benefits and overvaluing the cost [savings]." *Ctr. for Biological Diversity*, 538 F.3d at 1198.

The contrast between EPA's previous and current analyses is stark. As noted above, for the 2023 Rule, EPA extensively considered the SC-GHG. *See, e.g.*, 2023 Rule, 88 Fed. Reg. at 73,101. Shortly thereafter, EPA updated its SC-GHG estimates, providing hundreds more pages of analysis. *See generally* SC-GHG Report, *supra*. Now, in one paragraph of disclaimed analysis, EPA casts all that aside with nary a word on its earlier findings. EPA's paltry explanation defies Congress's commands to use the "best available data" in issuing HFC emission standards. 42 U.S.C. § 7675(i)(4)(A).

II. EPA Acts Arbitrarily By Failing To Adequately Consider The Final Rule's Climate Impacts.

Much of what makes the Final Rule contrary to the AIM Act's analytical and data-quality requirements also makes it arbitrary and capricious. In at least four respects, the Final Rule is not "reasonable and

reasonably explained." *Ohio v. EPA*, 603 U.S. 279, 292 (2024) (quotation marks omitted).

First, EPA "simply ignore[s] an important aspect of the problem" by brushing aside climate impacts. *Id.* (quotation marks omitted) (quoting *State Farm*, 463 U.S. at 43). Cost—meaning "any disadvantage"—is ordinarily "centrally relevant" to regulatory decisions. *Michigan*, 576 U.S. at 752–53; *see also Mingo Logan Coal Co. v. EPA*, 829 F.3d 710, 732 (D.C. Cir. 2016) (Kavanaugh, J., dissenting) ("[R]easoned decisionmaking requires assessing whether a proposed action would do more good than harm."). The AIM Act's reliance on quantitative estimates of HFCs' global-warming potential signals that climate change is an "important aspect" of the regulatory problem. *See* 42 U.S.C. § 7675(c)(1). And the 2023 Rule's climate benefits greatly exceeded its compliance costs (along with all other regulatory costs). *See* 2023 Rule, 88 Fed. Reg. at 73,101 tbl. 2. Indeed, efficiently avoiding these damages *was* "the problem" before the agency. Yet the Final Rule evinced no real awareness of this issue.

Second, EPA failed to ensure that the Final Rule served any lawful conception of rationality. Even setting aside the AIM Act's specific commands, "[o]ne would not say that it is even rational . . . to impose

billions of dollars of economic costs in return for a few dollars" in benefits. *Michigan*, 576 U.S. at 752. Yet this is effectively what the Final Rule risks. EPA's highest estimate of the Final Rule's monetized benefits was less than $1 billion. Impacts Analysis, *supra*, at 6, J.A. ___. By contrast, had EPA applied its own updated SC-HFC estimates, it would have calculated the climate costs at almost $8 billion.[7]

Third, EPA "put a thumb on the scale" for lower regulatory standards by arbitrarily deciding "not to monetize the benefit" of reducing HFC emissions while monetizing countervailing costs. *Ctr. for Biological Diversity*, 538 F.3d at 1198, 1203. As explained above, EPA's cursory appeal to uncertainty in estimating the SC-GHG does not render the agency's decision reasonable. To the contrary, it amounts to a failure

[7] Calculated using updated SC-HFC estimates, discounted at 2%, from EPA's 2024 GLOBAL_2023_AIM file. *Supra* note 6. Metrics for HFC-32, HFC-125, and HFC-134a are multiplied by tons of gas-specific annual emissions increases. The units for EPA's estimates of "Annual Increase[d] Emissions By Gas" are mislabeled. *Compare* Impacts Analysis, *supra*, at 68, tbl. A-1, J.A. ___ (labeled as "kg EVe," with quantities totaling 43,162.5) *with id.* at 15, tbl. ES-7, J.A. ___ (reporting 68 million metric tons EVe). When Table A-1's volumes are multiplied by exchange values from 42 U.S.C. § 7675(c)(1), the total matches 68.4 million. Table A-1's volumes, therefore, are metric tons of HFCs (not "kg EVe"). Multiplying these volumes by corresponding SC-HFC estimates and discounting at 2% yields a net present estimate of climate damages of $7.8 billion.

to "examine the relevant data and articulate a satisfactory explanation for its action." *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016) (quotation marks omitted).

Fourth, EPA failed to provide a "reasoned explanation" for changing its position on monetizing climate damages. *FDA v. Wages & White Lion Invs., L.L.C.*, 604 U.S. 542, 568 (2025). When an agency "abandon[s] a decades-old practice" underlying rulemaking, it must both "display awareness that it *is* changing position" and offer "good reasons for the new policy." *Id.* at 570 (cleaned up). Indeed, when an agency's "new policy rests upon factual findings that contradict those which underlay its prior policy," it "must" "provide a more detailed justification than what would suffice for a new policy created on a blank slate." *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). Here, EPA provided no rational justification for abandoning its climate-damages estimates, let alone one "more detailed" than its decades of prior analysis. Such irrationality is unlawful.

III. EPA Violates The AIM Act By Making The Final Rule Effective 60 Days After Publication.

The Final Rule also suffers a separate flaw. It took effect on July 27, 2026, just 60 days after publication in the *Federal Register*. Final

Rule, 91 Fed. Reg. at 31,284, 31,300. But the AIM Act requires at least one year between publication and effect. *See* 42 U.S.C. § 7675(i)(6). Because the Final Rule was published on May 26, 2026, it cannot permissibly take effect before May 26, 2027.

EPA argues that the one-year delay is inapplicable because the Final Rule removes existing restrictions, rather than imposing new ones. *See* Final Rule, 91 Fed. Reg. at 31,300–01. That position, however, is inconsistent with the AIM Act's text and history.

"Statutory interpretation must begin with, and ultimately heed, what a statute *actually says*." *Groff v. DeJoy*, 600 U.S. 447, 468 (2023) (cleaned up and emphasis added). Here, the statute imposes an unqualified command: "No rule under this subsection [*i.e.*, subsection (i)] may take effect before the date that is 1 year after the date on which the Administrator promulgates the applicable rule under this subsection." 42 U.S.C. § 7675(i)(6). "[T]he applicable rule under this subsection" naturally refers to the same "rule under this subsection" denoted at the beginning of the sentence. EPA acknowledges that it is issuing the Final Rule under the authority of subsection (i)(1), Final Rule, 91 Fed. Reg. at 31,287–88, and so the one-year delay plainly applies.

To avoid this outcome, EPA insists that if the "applicable rule under this subsection" at the end of paragraph (6) were the same as the "rule under this subsection" at the beginning, then "applicable" would be surplusage. *Id.* at 31,301. Thus, EPA rejects the plain reading.

"The canon against surplusage," however, "is not an absolute rule." *Stanley v. City of Sanford*, 606 U.S. 46, 56 (2025) (quotation marks omitted). The "cardinal canon" is instead that "a legislature says in a statute what it means and means in a statute what it says there." *Mullin v. Al Otro Lado*, 609 U.S. 258, 273 (2026) (quotation marks omitted). In ascertaining that meaning, surplusage affords "only a clue." *Rimini St., Inc. v. Oracle USA, Inc.*, 586 U.S. 334, 346 (2019). When a statutory reading allows surplusage but leaves the meaning "plain" rather than "ambiguous," applying the canon against surplusage is ordinarily "inappropriate." *Lamie v. U.S. Tr.*, 540 U.S. 526, 536 (2004).

So it is here: Attempting to eliminate surplusage only creates inconsistency. EPA interprets an "applicable" rule to be one "that creates new restrictions for a particular sector or subsector," but not one, such as the Final Rule, that relieves such restrictions. Final Rule, 91 Fed Reg. at 31,301. This reading is self-contradictory. EPA argues that because

paragraph (1) empowers the agency "by rule" to "restrict" the use of HFCs, the remaining provisions of subsection (i) (including paragraph (6), which mandates the one-year delay) should be read as applying only to "rules creating restrictions." *Id*. But, as EPA elsewhere acknowledges, its legal authority to promulgate the Final Rule flows from that same paragraph (1). *See id.* at 31,287. EPA cannot both read paragraph (1) as authorizing only rules that impose new restrictions (for purposes of reading paragraph (6)) *and* as authorizing rules that provide relief from restrictions (for purposes of justifying the Final Rule). Yet that is where EPA's logic leads. Under EPA's reading of the delay provision, EPA would lack authority under subsection (i) to issue the Final Rule in the first place.

EPA's position also subverts a basic principle of administrative law: except where statutory law provides otherwise, an agency must satisfy the same obligations when it relieves a restriction by rule as when it imposes one. Indeed, the Administrative Procedure Act (APA) generally rejects any such categorical distinction. Rather, it defines "rule making" as "agency process for formulating, amending, *or repealing* a rule." 5 U.S.C. § 551(5) (emphasis added). Regulatory and deregulatory rules

alike are accordingly subject to the same standards of review, *see, e.g.*, *State Farm*, 463 U.S. at 42, and to the same procedural obligations, *see Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 101 (2015). And "[a]n agency has no power to 'tailor' legislation to bureaucratic policy goals by rewriting unambiguous statutory terms." *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 325 (2014).

Had Congress wished to treat deregulatory rules differently (without creating inconsistencies), it knew how to do so. For one thing, Congress could have defined "rule" or "rule making" differently under the AIM Act. Indeed, the AIM Act provides statute-specific definitions and subjects EPA to Clean Air Act-specific procedures. *See* 42 U.S.C. §§ 7675(b), 7606(d). For another, Congress could have kept the APA's default rule. That statute authorizes just the sort of asymmetry that EPA now seeks: whereas most "substantive rule[s]" may not take effect less than 30 days after publication, those that "grant[] or recognize[] an exemption or relieve[] a restriction" require no such delay. 5 U.S.C. § 553(d)(1). Yet Congress chose to *keep* the APA's definitions of "rule" and "rule making" (which subsume regulatory and deregulatory actions alike, *see* 5 U.S.C. § 551(4), (5)) and to *displace* the APA's "relie[f]" exemption

from the effective-date delay. The result is a mandatory one-year effective-date delay that applies equally to regulatory restrictions and to regulatory relief.

Subsection (i)'s history confirms that paragraph (6)'s plain meaning was intentional. Co-sponsors considering what became the AIM Act emphasized the importance of "an orderly and predictable transition to next-generation technologies." *Promoting American Innovation and Jobs: Legislation to Phase Down Hydrofluorocarbons: Hearing before the Subcomm. on Envt'l and Climate Change of the Comm. on Energy and Com.*, 116th Cong. 2 (2020); *see, e.g.*, *id.* at 20 (statement of Rep. Peters), 23 (statement of Rep. Blunt Rochester). Following extensive deliberation, Congress progressed from providing no effective-date delay, *see* H.R. 4447, 116th Cong. § 9206 (2020), to enacting the current one-year requirement, *see* 42 U.S.C. § 7675(i)(6). Congress deliberately opted for a bright-line rule—one that EPA now evades.

Ultimately, EPA's statutory argument appears to reflect policy goals more than interpretative fidelity. The agency asserts, for example, that when it provides additional time for compliance or makes prior restrictions less stringent, "the need for adequate notice to parties subject

to the restriction is less compelling." Final Rule, 91 Fed. Reg. at 31,301. That assertion overlooks the serious reliance interests of the many regulated parties and states that would benefit from faithful implementation of the statute's one-year delay. Manufacturers, for example, need predictable timelines to coordinate investments. *See* Br. of Heating, Air Conditioning & Refrigeration Distribs. Int'l, et al. at 33–34, 19–21. States likewise need lead time to pursue their own emission-reduction targets. *See* NRDC & States' Br. at 29–30. But even if that were not so, EPA's "policy-laden argument does not overcome the text of the statute and traditional administrative law principles." *McLaughlin Chiropractic Assocs., Inc. v. McKesson Corp.*, 606 U.S. 146, 166 (2025).

CONCLUSION

This Court should set aside the Final Rule.

October 26, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This *amicus curiae* brief complies with the type-volume limitations of Fed. R. App. P. 29(a)(5) because this brief contains 6496 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f), as counted by counsel's word processing system.

This *amicus curiae* brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in Century Schoolbook 14-point font.

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of October 2026, a true and correct copy of the foregoing Proof Brief of the Institute for Policy Integrity at New York University School of Law as Amicus Curiae in Support of Petitioners was filed with the Clerk of the United States Court of Appeals for the District of Columbia Circuit via the Court's CM/ECF system. Counsel for all parties are registered CM/ECF users and will be served by the appellate CM/ECF system.

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