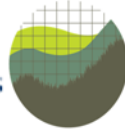




CENTER FOR CLIMATE
AND ENERGY SOLUTIONS



Institute for
Policy Integrity
NEW YORK UNIVERSITY SCHOOL OF LAW



Union of
**Concerned
Scientists**

October 6, 2022

To: Office of Energy Efficiency and Renewable Energy, Department of Energy

Submitted By: Center for Climate and Energy Solutions, Institute for Policy Integrity at New York University School of Law, Montana
Environmental Information Center, Natural Resources Defense Council, Sierra Club, Union of Concerned Scientists

Subject: Monetizing Greenhouse Gas Emissions in Energy Conservation Program: Energy Conservation Standards for Consumer Furnaces (EERE–2014–BT–STD–0031) (proposed July 7, 2022)

The undersigned organizations respectfully submit the following comments¹ on the Department of Energy’s application of the social cost of greenhouse gases in its notice of proposed rulemaking for consumer furnaces (“Proposed Rule”),² and in the associated technical support document (“TSD”).³

Even though the Proposed Rule’s costs would exceed its benefits without considering climate effects,⁴ DOE appropriately applies the social cost estimates developed by the Interagency Working Group on the Social Cost of Greenhouse Gases (“Working Group”) to its analysis of climate benefits. DOE correctly recognizes that the Working Group’s estimates represent the federal government’s “most appropriate” valuation of the benefits from reducing greenhouse gas emissions.⁵ The Working Group developed these estimates through a rigorous and transparent process incorporating the best available science.⁶ These values—though widely agreed to underestimate the full social costs of greenhouse gas

¹ Our organizations may separately and independently submit other comments to this docket. This document does not purport to represent the views, if any, of New York University School of Law.

² Energy Conservation Standards for Consumer Furnaces, 87 Fed. Reg. 40,590 (proposed July 7, 2022) [hereinafter “Proposed Rule”].

³ Dep’t of Energy, Technical Support Document: Energy Efficiency Program for Consumer Products and Commercial and Industrial Equipment: Consumer Furnaces (June 2022) [hereinafter “TSD”].

⁴ See Proposed Rule, 87 Fed. Reg. at 40,594 tbl.1-5 (finding that consumer operational cost savings exceed total costs when considered at both a 3% and 7% discount rate). See also *id.* at 40,659 (“DOE exercises its own judgment in presenting monetized climate benefits as recommended by applicable Executive Orders, and DOE would reach the same conclusion presented in this notice in the absence of the social cost of greenhouse gases[.]”).

⁵ *Id.* at 40,659.

⁶ *Id.*

emissions⁷—are appropriate to use as conservative estimates and have been applied in dozens of previous rulemakings⁸ and upheld in federal court.⁹

DOE provides compelling justifications for readopting the Working Group’s estimates¹⁰ that it briefly abandoned under the Trump administration.¹¹ As detailed in the attached June 6 comments on DOE’s recent proposed standards for room air conditioners, which we incorporate by reference, there are **numerous legal, economic, and policy justifications that further bolster DOE’s adoption of the Working Group’s climate-damage valuations**. In addition to incorporating those rationales, DOE should also strongly consider conducting supplemental sensitivity analyses to assess the Proposed Rule’s climate benefits at lower discount rates, per the recommendation of the Working Group.¹²

The attached comments make four main points. First, they offer **more detailed support for adopting a global framework for valuing climate impacts**. These include legal justifications based on the Energy Policy and Conservation Act, the National Environmental Policy Act’s broad government-wide policy mandates, the Administrative Procedure Act’s requirement to consider all important factors, executive orders, and international agreements. They also propose that DOE include a discussion of domestic-only climate-damage estimates. While DOE should not use the flawed domestic-only values developed under the now-revoked Executive Order 13,783, which it applied in a similar rulemaking in 2020, the comment letter suggests that DOE conduct sensitivity analysis using a sounder domestic-only estimate as a backstop¹³ and explicitly conclude that the rule is cost-benefit justified even using a domestic-only valuation that may substantially undercount climate benefits.¹⁴

Second, the comments offer **additional justification for adopting the range of discount rates endorsed by the Working Group** and for its decision not to apply a 7% capital-based discount rate to climate impacts. Besides climate effects presenting special legal, economic, and policy considerations for the discount rate, it is appropriate generally for DOE to focus its analysis of this rule on consumption-based rates given that most costs and benefits are projected to fall to consumption rather than to capital investments. DOE should also consider providing

⁷ Interagency Working Group on the Social Cost of Greenhouse Gases, Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide – Interim Estimates Under Executive Order 13,990 at 4 (2021) [hereinafter “IWG, 2021 TSD”]. Richard L. Revesz et al., *Global Warming: Improve Economic Models of Climate Change*, 508 NATURE 173 (2014) (note that co-author Kenneth Arrow was a Nobel Prize-winning economist).

⁸ Peter Howard & Jason A. Schwartz, *Think Global: International Reciprocity as Justification for a Global Social Cost of Carbon*, 42 COLUM. J. ENV’T L. 203, 270–84 (2017) (listing all uses through mid-2016).

⁹ *Zero Zone v. Dept. of Energy*, 832 F.3d 654, 679 (7th Cir. 2016).

¹⁰ See Proposed Rule, 87 Fed. Reg. at 40,659–61; TSD at 14-1 to -5.

¹¹ See, e.g., Dep’t of Energy, Technical Support Document: Energy Efficiency Program for Consumer Products and Commercial and Industrial Equipment: Room Air Conditions 14-1 (June 2020) (applying the flawed domestic-only interim estimates developed pursuant to Executive Order 13,783.)

¹² IWG, 2021 TSD, *supra* note 7, at 4 (“Consistent with the guidance in E.O. 13990 for the IWG to ensure that the SC-GHG reflect the interests of future generations, the latest scientific and economic understanding of discount rates discussed in this TSD, and the recommendation from OMB’s Circular A-4 to include sensitivity analysis with lower discount rates when a rule has important intergenerational benefits or costs, agencies may consider conducting additional sensitivity analysis using discount rates below 2.5 percent.”).

¹³ See, e.g., Matthew J. Kotchen, *Which Social Cost of Carbon? A Theoretical Perspective*, 5 J. ASSOC. ENV’T & RES. ECON. 673, 690 (2017) (offering peer-reviewed domestic-only values that account for international reciprocity, which for the United States are approximately 73% of the global social cost figures).

¹⁴ See *supra* note 4 and accompanying text (explaining that Proposed Rule is cost-justified without any climate benefits).

additional sensitivity analysis using discount rates of 2% or lower for climate impacts, as recently suggested by the Working Group.¹⁵

Third, the comments offer **further justification for relying on the Working Group's other methodological choices**, including the fact that the Working Group applied a transparent and rigorous process that relied upon the best-available and most widely cited models for monetizing climate damages. The attached comments provide detailed **rebuttals to common criticisms of the Working Group's methodology** from opponents of energy, consumer-rights, and climate regulation.

Finally, the comments **suggest that DOE clearly state that any criticisms of the social cost of greenhouse gases are moot in this rulemaking** because the Proposed Rule is cost-justified without any climate benefits.¹⁶ Accordingly, for the reasons set out in the attached comment letter, **it is appropriate for DOE to continue to rely on the Working Group's valuations of the social cost of greenhouse gases as conservative estimates** when it finalizes the Proposed Rule.

Sincerely,

Rachel Cleetus, Ph.D., Policy Director, Union of Concerned Scientists
Stephanie Gagnon, Associate Policy Fellow, Center for Climate and Energy Solutions
Anne Hedges, Deputy Director, Montana Environmental Information Center
Peter Howard, Ph.D., Economics Director, Institute for Policy Integrity, NYU School of Law*
Andres Restrepo, Senior Attorney, Sierra Club
Max Sarinsky, Senior Attorney, Institute for Policy Integrity, NYU School of Law*
Joe Vukovich, Staff Attorney, Natural Resources Defense Council

For questions about this document, please contact:
Max Sarinsky, Senior Attorney | max.sarinsky@nyu.edu
Institute for Policy Integrity at NYU School of Law
139 MacDougal Street, 3rd Floor, New York, NY 10012

*No part of this document purports to represent the views, if any, of New York University School of Law.

Attachments:

- 1) Ctr. for Climate & Energy Solutions et al., Comments to DOE on Monetizing Greenhouse Gas Emissions in Energy Conservation Program: Energy Conservation Standards for Room Air Conditioners (EERE-2014-BT-STD-0059) (proposed Apr. 7, 2022) (June 6, 2022)

¹⁵ See *supra* note 12 and accompanying text.

¹⁶ See *supra* note 4 and accompanying text.