



December 13, 2023

To: National Highway Traffic Safety Administration, U.S. Department of Transportation
Re: Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027–2032 and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030–2035, 88 Fed. Reg. 56,128 (proposed Aug. 17, 2023)
Via: Email to NHTSA (and posted publicly on policyintegrity.org)

The Institute for Policy Integrity at New York University School of Law (Policy Integrity)¹ respectfully submits this supplemental comment letter on the National Highway Traffic Safety Administration’s (NHTSA) above-captioned proposed rule (Proposed Rule).² This letter urges NHTSA to apply the Environmental Protection Agency’s (EPA) newly released social cost of greenhouse gases estimates and the 2% discount rate from the updated Circular A-4 when it finalizes the Proposed Rule.

To monetize the Proposed Rule’s climate benefits, NHTSA applied valuations from the Interagency Working Group on the Social Cost of Greenhouse Gases.³ The Interagency Working Group last substantively updated those valuations in 2016⁴ and now recognizes them as underestimates.⁵ Policy Integrity’s October 2023 comment letter urged NHTSA to conduct additional analysis using EPA’s recently updated damage values.⁶ At that time, EPA’s values were unfinalized.

EPA finalized its climate-damage values earlier this month, following public comment and expert peer review.⁷ EPA’s updated values are the most robust and comprehensive federal

¹ Policy Integrity is a non-partisan think tank dedicated to improving the quality of government decisionmaking through advocacy and scholarship in the fields of administrative law, economics, and public policy. This document does not purport to present the views, if any, of New York University School of Law.

² Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027–2032 and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030–2035, 88 Fed. Reg. 56,128 (proposed Aug. 17, 2023) [hereinafter Proposed Rule].

³ NHTSA, Preliminary Regulatory Impact Analysis: Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027 and Beyond and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030 and Beyond 8-28 (2023) [hereinafter RIA].

⁴ INTERAGENCY WORKING GRP. ON THE SOCIAL COST OF GREENHOUSE GASES, TECHNICAL SUPPORT DOCUMENT: SOCIAL COST OF CARBON, METHANE, AND NITROUS OXIDE: INTERIM ESTIMATES UNDER EXECUTIVE ORDER 13990 at 5 n.3 (2021) (noting that values reported therein “are identical to those reported in [2016] adjusted for inflation to 2020 dollars”).

⁵ *Id.* at 4.

⁶ Inst. for Pol’y Integrity, Comments on Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027–2032 and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030–2035 at 15–16 (Oct. 16, 2023) (NHTSA-2023-0022-60485).

⁷ ENV’T PROT. AGENCY, EPA REPORT ON THE SOCIAL COST OF GREENHOUSE GASES: ESTIMATES INCORPORATING RECENT SCIENTIFIC ADVANCES (2023).

climate-damage estimates available. They implement the 2017 roadmap from the National Academies of Sciences for improving the existing Interagency Working Group estimates.⁸ They also incorporate newer scientific and economic evidence.⁹ Expert peer reviewers praised EPA’s numbers as a “huge advance,”¹⁰ a “significant step,”¹¹ and a “much-needed improvement”¹² that “advanc[es] our state of knowledge”¹³ and “represents well the emerging consensus in the literature.”¹⁴

For these reasons, NHTSA should apply EPA’s updated valuations to estimate this rule’s climate benefits. NHTSA should present EPA’s updated valuations in its primary cost-benefit analysis. If not, it should at minimum present them in sensitivity analysis.

NHTSA should also assess regulatory impacts using a 2% discount rate. The Proposed Rule applied discount rates of 3% and 7% consistent with the then-current version of Circular A-4.¹⁵ In November, the Office of Management and Budget finalized revisions to Circular A-4 that endorsed a 2% discount rate.¹⁶ The update advises agencies to apply its guidance immediately “[t]o the extent feasible and appropriate.”¹⁷ Given the extensive economic support for lower discount rates,¹⁸ it is “appropriate” here for NHTSA to apply a 2% discount rate. Doing so is also “feasible” given that the discount rate parameter is easily adjustable in NHTSA’s model; indeed, Policy Integrity’s original letter ran the model under a lower discount rate. If necessary, NHTSA could apply a 2% rate alongside other discount rates, much like EPA did earlier this month.¹⁹ And to the extent feasible, furthermore, NHTSA should assess the distributional impacts of this regulation also in accordance with the new Circular A-4.²⁰

As Policy Integrity’s previous comment letter explained, the updated climate-damage values and discount rates offer support for the proposed standards and particularly their more stringent alternatives. Using EPA’s updated values and Circular A-4’s lower discount rates, the net benefits of PC6LT8 are nearly double the net benefits of PC2LT4.²¹ Using these updated

⁸ NAT’L ACAD. SCI., ENGINEERING & MED., VALUING CLIMATE DAMAGES: UPDATING ESTIMATION OF THE SOCIAL COST OF CARBON DIOXIDE (2017).

⁹ See ENV’T PROT. AGENCY, *supra* note 7, at 46 fig.2.3.1 (comparing publication year of studies underlying EPA’s estimates to those underlying Interagency Working Group estimates).

¹⁰ FINAL COMMENTS SUMMARY REPORT, EXTERNAL LETTER PEER REVIEW OF TECHNICAL SUPPORT DOCUMENT: SOCIAL COST OF GREENHOUSE GAS 7 (2023) (comments of Dr. Maureen Cropper).

¹¹ *Id.* at 9 (comments of Dr. Chris E. Forest)

¹² *Id.* at 10 (comments of Dr. Catherine Louise Kling)

¹³ *Id.* at 14 (comments of Dr. Wolfram Schlenker).

¹⁴ *Id.* at 15 (comments of Dr. Gernot Wagner).

¹⁵ RIA, *supra* note 3, at 5-6 (citing OFF. OF MGMT. & BUDGET, CIRCULAR A-4: REGULATORY ANALYSIS (2003)).

¹⁶ OFF. OF MGMT. & BUDGET, CIRCULAR A-4: REGULATORY ANALYSIS at 77 (2023) [hereinafter NEW CIRCULAR A-4].

¹⁷ *Id.* at 93.

¹⁸ Inst. for Pol’y Integrity, *supra* note 6, at 17.

¹⁹ See Env’t Prot. Agency, Regulatory Impact Analysis of the Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review 1-13 to 1-15 tbls.1-4 to 1-6 (2023).

²⁰ NEW CIRCULAR A-4, *supra* note 16, at 61–67.

²¹ Inst. for Pol’y Integrity, *supra* note 6, at 17 tbl.4 (showing \$360.3 billion in net benefits for PC6LT8, compared to \$189.4 billion for PC2LT4, using EPA’s updated values and the 1.7% discount rate from the draft Circular A-4).

economic values also widens the gap in net benefits between HDPUV10 and HDPUV14.²² These changes thus support NHTSA reevaluating its selection among regulatory alternatives.

Respectfully,

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²² *See id.* at 12.