

Appendix I: Supplemental Submission from Competitive Enterprise Institute

1 It is CEI's understanding that EPA requested its outside contractor, ICF, assume
2 unrealistic scenarios regarding the cost and supply of natural gas, or at minimum
3 scenarios running strongly counter to those which ICF itself touts on its own website as
4 likely under any carbon dioxide suppression scheme. CEI expressed our concerns to Mr.
5 Holmstead, who orally assured us that his office would gladly provide us such
6 information even without invoking FOIA. Notwithstanding the seriousness of this
7 proposal and that assurance, it is several months since this assurance and this very
8 straightforward request for information remains unsatisfied, under FOIA or otherwise.
9 This leads us to believe that the Administration is using such a tactic, of farming out
10 studies, to avoid scrutiny of its proposals.

11
12 Such withholding is made even more troubling by EPA refusing access to data described
13 and/or provided by EPA to a contractor; it does not request any such contractor's
14 "model" or other property reasonably subject to "proprietary" claims. By such practice
15 an agency avoids releasing purported proprietary information that it is obligated to refrain
16 from withholding. Still, we are told by certain Administration officers, and it was alluded
17 to by Mr. Holmstead, that the basis for such refusal is a purported "proprietary" nature of
18 the data.

19
20 We believe this practice makes for terrible policy and is unacceptable, even without, but
21 certainly given, FDQA's requirements. OMB's January 3 publication of "Guidelines for
22 Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information
23 Disseminated by Federal Agencies" (Federal Register, Vol. 2, No. 67, p. 369)(see
24 [http://frwebgate3.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=43070613463+0+](http://frwebgate3.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=43070613463+0+2+0&WAISaction=retrieve)
25 [2+0&WAISaction=retrieve](http://frwebgate3.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=43070613463+0+2+0&WAISaction=retrieve)) assert:

26
27 "As we state in new paragraph V.3.b.ii.B.II, 'In situations where public access to
28 data [sic] and methods will not occur due to other compelling interests, agencies
29 shall apply especially rigorous robustness checks to analytic results and document
30 what checks were undertaken. Agency guidelines *shall*, however, ***in all cases,***
31 ***require a disclosure of the specific data sources*** that have been used and the
32 specific quantitative methods ***and assumptions that have been employed.***"
33 (emphasis added)(p. 374).

34
35 We read this to mean that the Office of Management and Budget will refuse to consider
36 any assumptions used in, *e.g.*, the ICF or other model(s) as proprietary. **We also read**
37 **this to indicate OMB recommends other agencies act similarly in promulgating their**
38 **own required guidelines.** That is, in the name of transparency and reproducibility
39 Congress and OMB have preemptively addressed certain materials requiring disclosure,
40 such that denial under FOIA, privacy agreements, or otherwise is not supportable.

41
42 Given that it appears there would not exist any reason, proprietary or otherwise, to refuse
43 the public access to the requested assumptions, we hope OMB and **Commerce/NOAA**
44 enforce this position at every opportunity, and immediately encourage
45 **Commerce/NOAA** to make a prohibition against using such tools as barriers to public
46 access to data in its FDQA guidelines. Clearly, if it appears even one agency continues to

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1 use such a tactic to shield data on a matter of such major economic significance,
2 Congress surely would intervene and prohibit such outside contracting, period. That is a
3 result that appears easily avoidable, and indeed proscribed by FDQA's requirements.
4

5 CCSP must also consider the FDQA requirements of "objective" and "unbiased"
6 information, an error committed on a gross scale in the first , incomplete attempt at a
7 National Assessment on Climate Change The Data Quality Act requires agencies to issue
8 guidelines ensuring and maximizing the "objectivity" of all information they disseminate.
9 The OMB guidelines implementing the legislation define "objectivity," and that
10 definition includes a requirement that information be "unbiased" in presentation and
11 substance. "Objectivity," along with "unbiased," is correctly considered to be, under the
12 OMB guidelines, an "overall" standard of quality. 67 Fed. Reg. 8452, 8458. However,
13 the OMB guidelines do not provide any explanation of how to eliminate bias from risk
14 assessment.
15

16 For many years, risk assessments conducted by EPA and other federal environmental
17 agencies have been criticized for being biased by the use of "conservative," policy-
18 driven, "default assumptions", inferences, and "uncertainty factors" in order to general
19 numerical estimates of risk when the scientific data do not support such quantitation as
20 accurate. When such numerical assumptions are presented in any agency risk
21 characterization, it is likely that members of the public who are unfamiliar with how the
22 agency arrived at such numbers believe that the numbers are based on "sound science."
23 In actuality, the risk numbers are a result of co-mingling science with policy bias in a
24 manner such that they cannot be disentangled. The question is whether the proposed
25 agency guidelines have attempted to address this issue and how.
26

27 EXAMPLE OF CURRENTLY DISSEMINATED INFORMATION FAILING 28 ANY REASONABLE INTERPRETATION OF FDQA/OMB REQUIREMENTS 29

30 For the reasons detailed, *infra*, to the extent that **CCSP [Commerce/NOAA]** and/or any
31 covered agency cites, refers or links to, or otherwise disseminates the following product
32 of, *inter alia*, the White House Office of Science and Technology Policy, it is in violation
33 of FDQA. Further, to the extent any **Commerce/NOAA** guidelines pursuant to OMB's
34 FDQA guidelines permitting continued dissemination of this product, the first National
35 Assessment on Climate Change ("National Assessment") ([http://www.usgcrp.gov/usgcrp/
36 nacc/default.htm](http://www.usgcrp.gov/usgcrp/nacc/default.htm)), that guideline is unacceptable under the Federal Data Quality Act
37 (FDQA).
38

39 The above-described and other failings of various draft FDQA guidelines that, facially,
40 would arguably permit continued dissemination of such inappropriate data therefore must
41 be corrected if they are to survive challenge as violative of FDQA. These mistakes must
42 be avoided in future USGCRP/CCSP efforts.
43

44 Specifically, and as detailed below, FDQA prohibits – **and therefore, Commerce/
45 NOAA's FDQA guidelines must prohibit** -- dissemination of the first attempted
46 National Assessment (NACC) – or any successor document or document purporting to

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1 “complete” the first NACC” if produced with the same flaws -- for the failure to satisfy
2 the data quality requirements of “**objectivity**” (whether the disseminated information is
3 presented in an *accurate, clear, complete* and *unbiased* manner and is as a matter of
4 substance *accurate, reliable* and *unbiased*), and “**utility**” (the *usefulness* of the
5 information to the *intended users* (per the US Global Change Act of 1990, these are
6 Congress and the Executive Branch). See 67 FR 370. As the statutorily designated
7 steering document for policymaking, NACC qualifies as “influential scientific or
8 statistical information”, therefore it must meet a “reproducibility” standard, setting forth
9 transparency regarding data and methods of analysis, “as a quality standard above and
10 beyond some peer review quality standards.”

11
12 The reasons, as detailed, *infra*, include NACC’s inappropriate use of computer models
13 and data. Further, in developing the published version of NACC, the US Global Change
14 Research Program (USGCRP) also failed to perform the necessary science underlying
15 regional and sectoral analyses that, as Congress notified USGCRP at the time, was a
16 condition precedent to the release of any National Assessment (even a draft). FDQA
17 ratifies those objections, and is violated by continued dissemination of this product by
18 any federal agency.

19
20 Additional rationale necessitating a prohibition on further NACC dissemination is
21 provided by an extensive record obtained through the Freedom of Information Act
22 (FOIA), that the purported internal “peer review” of the draft NACC did not in fact occur
23 (this record also ratifies the inappropriate use of computer models, as also detailed). As
24 the obtained documents demonstrate, commenting parties expressly informed USGCRP
25 that they were rushed and as such were not given adequate time for substantive review or
26 comment. USGCRP published and continues to disseminate the product nonetheless, as
27 do all agencies such as **Commerce/NOAA** which reference, cite, link or otherwise
28 disseminate NACC.

29
30 All of these failings ensure that dissemination of NACC violates FDQA’s requirement,
31 manifested in OMB’s Guidelines and as necessarily manifested by **Commerce/NOAA**’s
32 final guidelines, that data disseminated by Federal Agencies meet standards of quality as
33 measured by specific tests for objectivity, utility and integrity.

34
35 As you are also aware and as reaffirmed by OMB in its FDQA Final Guidance, though
36 **Commerce/NOAA** is only now developing agency-specific guidelines and mechanisms,
37 for complaints invoking OMB’s Guidelines in the interim **Commerce/NOAA** should
38 already have in place requisite administrative mechanisms for applying OMB’s
39 standards.

40 41 I. FDQA Coverage of the NACC

42
43 Be it as “third party” data or otherwise, NACC is inescapably covered by FDQA when
44 disseminated by any other Federal Agency. First, it is notweworthy that, whatever the
45 status of the governmental office produced NACC, as directed by the Executive Office of
46 the President (EOP), the United States Global Change Research Program (USGCRP),

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1 producer of the National Assessment on Climate Change (NACC or Assessment) is
2 subject to the Federal Data Quality Act (FDQA). FDQA covers the same entities as the
3 Paperwork Reduction Act (44 U.S.C. Sections 3501 *et seq.*; see esp. 44 U.S.C. 3502(1)).
4

5 By statute the President serves as Chairman of the National Science and Technology
6 Council (“NSTC”), operating under the White House Office of Science and Technology
7 Policy (“OSTP”), and which has under its authority the Committee on Environment and
8 Natural Resources (“CENR”) (15 U.S.C. 2932 (originally “Committee on Earth and
9 Environmental Sciences”). All of these offices are therefore EOP entities, subject to
10 PWRA, thus FDQA.
11

12 Per 15 U.S.C. 2934 the President, as Chairman of the Council, shall develop and
13 implement through CENR a US Global Change Research Program. The Program shall
14 advise the President and Congress, through the NACC, on relevant considerations for
15 climate policy. Though the composite USGCRP is an “interagency” effort staffed in
16 great part by seconded employees from federal agencies, it remains under the direction of
17 the President and is therefore a “covered agency” pursuant to 44 U.S.C. 3502(1).
18

19 Collectively and pursuant to statutory authority, under the direction of these Executive
20 offices the USGCRP directed an effort statutorily dedicated in part to studying the state
21 of the science and its uncertainties surrounding the theory of “global warming” or
22 “climate change,” producing a National Assessment on Climate Change (“NACC”).

23 **Though originally produced prior to FDQA, the data asserted by the NACC (issued**
24 **in final in December 2000; see <http://www.usgcrp.gov/usgcrp/nacc/default.htm>), as**
25 **current or continued dissemination is subject to the requirements of the Federal**
26 **Data Quality Act.**
27

28 II. Development of NACC

29
30 The Assessment was produced as follows:
31

- 32 1. Pursuant to and/or under the auspices of the Global Change Research Act of 1990,
33 15 U.S.C. 2921, *et seq.*, USGCRP is assigned the responsibility of producing a
34 scientific assessment, particularly that which is at issue in this Petition, as follows:
35

36 “On a periodic basis (not less frequently than every 4 years), the Council, through the
37 Committee, shall prepare and submit to the President and the Congress an assessment
38 which –
39

- 40 (1) integrates, evaluates, and interprets the findings of the [USGCR]
41 Program and discusses the scientific uncertainties associated with
42 such findings;
- 43 (2) analyzes the effects of global change on the natural environment,
44 agriculture, energy production and use, land and water resources,

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1 transportation, human health and welfare, human social systems,
2 and biological diversity; and
3 (3) analyzes current trends in global change both human-induced (sic)
4 and natural, and projects major trends for the subsequent 25 to 100
5 years.” (15 U.S.C. 2934).
6

7 2. The document at issue in this Petition, the “First National Assessment on Climate
8 Change,” disseminates data rising to the requisite FDQA levels of “quality”, as
9 described herein.

10
11 3. USGCRP’s surge to release a flawed, partial, and partially unauthorized, report
12 came despite requests of lawmakers and outside interests concerned with the
13 issues at hand, to withhold releasing a such a document lacking particular
14 required scientific foundations, in violation of several laws and public policy.
15

16 III. The Assessment violates the requirements of the FDQA in the following ways:
17

18 1. NACC Relies Upon and Promotes Improper Use of Computer Model Data
19

20 For the following reasons, NACC violates FDQA’s “objectivity” and “utility”
21 requirements. As “influential scientific or statistical information”, NACC also fails for
22 these reasons its “reproducibility” standard, setting forth transparency regarding data and
23 methods of analysis, “a quality standard above and beyond some peer review quality
24 standards.”
25

26 **First**, on behalf of this petition, Patrick Michaels, Professor of Environmental Sciences at
27 University of Virginia, excerpts from his review of the NACC dated and submitted to
28 USGCRP August 11, 2000, detailing concerns noted above that place the NACC in
29 violation of FDQA. Where appropriate, additional *explanatory text* is included.

30 **USGCRP made no apparent alterations of the original text in response to these**
31 **comments, therefore the comments apply to NACC as disseminated.**
32

33 “August 11, 2000...”
34

35 **“The essential problem with the USNA [elsewhere cited in these FDQA Comments as**
36 **the NACC] is that it is based largely on two climate models, neither one of which,**
37 **when compared with the 10-year smoothed behavior of the lower 48 states (a very**
38 **lenient comparison), reduces the residual variance below the raw variance of the**
39 **data. The one that generates the most lurid warming scenarios—the Canadian**
40 **Climate Centre (CCC) Model—produces much larger errors than are inherent in**
41 **the natural noise of the data. That is a simple test of whether or not a model is**
42 **valid...and both of those models fail. All implied effects, including the large**
43 **temperature rise, are therefore based upon a multiple scientific failure. The USNA’s**
44 **continued use of those models and that approach is a willful choice to disregard the**
45 **most fundamental of scientific rules. (And that they did not find and eliminate such**

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1 **an egregious error is testimony to grave bias). For that reason alone, the USNA**
2 **should be withdrawn from the public sphere until it becomes scientifically based.”**
3

4 **Explanatory text:** *The basic rule of science is that hypotheses must be verified by*
5 *observed data before they can be regarded as facts. Science that does not do this is “junk*
6 *science”, and at minimum is precisely what the FDQA is designed to bar from the*
7 *policymaking process.*
8

9 *The two climate models used in the NACC make predictions of U.S. climate change based*
10 *upon human alterations of the atmosphere. Those alterations have been going on for well*
11 *over 100 years. Do the changes those models “predicted” for U.S. climate in the last*
12 *century resemble what actually occurred?*
13

14 *This can be determined by comparison of observed U.S. annual temperature departures*
15 *from the 20th century average with those generated by both of these models. It is*
16 *traditional to use moving averages of the data to smooth out year-to-year changes that*
17 *cannot be anticipated by any climate model. This review used 10-year running averages*
18 *to minimize interannual noise.*
19

20 *The predicted-minus-observed values for both models versus were then compared to the*
21 *result that would obtain if one simply predicted the average temperature for the 20th*
22 *century from year to year. In fact, both models did worse than that base case. Statistically*
23 *speaking, that means that both models perform worse for the last 100 years than a table*
24 *of random numbers applied to ten-year running mean U.S. temperatures.*
25

26 *There was no discernible alteration of the NACC text in response to this fatal flaw.*
27 *However, the NACC Synthesis Team, co-chaired by Thomas Karl, Director of the*
28 *National Climatic Data Center, took the result so seriously that they commissioned an*
29 *independent replication of this test, only more inclusive, using 1-year, 5-year, 10-year*
30 *and 25-year running means of the U.S. annual temperature. This analysis verified that in*
31 *fact both models performed no better than a table of random numbers applied to the U.S.*
32 *Climate Data. Mr. Karl was kind enough to send the results to this reviewer.*
33

34 *“...the problem of model selection. As shown in Figure 9.3 of the Third Assessment of*
35 *the United Nations Intergovernmental Panel on Climate Change, the behavior of virtually*
36 *every General Circulation Climate model (GCM) is the production of a linear warming,*
37 *despite assumptions of exponential increases in greenhouse forcing. In fact, only one (out*
38 *of, by my count, 26) GCMs produces a substantially exponential warming—the CCC*
39 *model [one of the two used in the NACC]. Others may bend up a little, though not*
40 *substantially, in the policy-relevant time frame. The USNA specifically chose the outlier*
41 *with regard to the mathematical form of the output. No graduate student would be*
42 *allowed to submit a thesis to his or her committee with such arrogant bias, and no*
43 *national committee should be allowed to submit such a report to the American people.*
44

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1 **Even worse, the CCC and Hadley data were decadal smoothed and then (!) subject**
2 **to a parabolic fit, as the caption for the USNA’s Figure 6 makes clear. That makes**
3 **the CCC even appear warmer because of the very high last decadal average.**

4
5 One of the two models chosen for use in the USNA, the Canadian Climate Center (CCC)
6 model, predicts the most extreme temperature and precipitation changes of all the models
7 considered for inclusion. The CCC model forecasts the average temperature in the United
8 States to rise 8.1°F (4.5°C) by the year 2100, more than twice the rise of 3.6°F (2.0°C)
9 forecast by the U.K. model (the second model used in the USNA). Compare this with
10 what has actually occurred during the past century. The CCC model predicted a warming
11 of 2.7°F (1.5°C) in the United States over the course of the twentieth century, but the
12 observations show that the increase was about 0.25°F (0.14°C) (Hansen, J.E., et al., 1999:
13 GISS analysis of surface temperature change. *Journal of Geophysical Research*, **104**,
14 30,997–31,022), or about 10 times less than the forecast [Hansen has since revised this to
15 0.5°C, which makes the prediction three times greater than what has been observed]...
16 The CCC forecast of precipitation changes across the United States is equally extreme. Of
17 all the models reviewed for inclusion in the USNA, the CCC model predicted more than
18 twice the precipitation change than the second most extreme model, which interestingly,
19 was the U.K. model [the other model used in the NACC]. The U.K. model itself forecast
20 twice the change of the average of the remaining, unselected models. Therefore, along
21 with the fact that GCMs in general cannot accurately forecast climate change at regional
22 levels, the GCMs selected as the basis for the USNA conclusions do not even fairly
23 represent the collection of available climate models.

24
25 Why deliberately select such an inappropriate model as the CCC? [Thomas Karl, co-
26 Chair of the NACC synthesis team replied that] the reason the USNA chose the CCC
27 model is that it provides diurnal temperatures; this is a remarkable criterion given its base
28 performance....”

29
30 “The USNA’s high-end scenarios are driven by a model that 1) doesn’t work over the
31 United States; 2) is at functional variance with virtually every other climate model. It is
32 simply impossible to reconcile this skewed choice with the rather esoteric desire to
33 include diurnal temperatures...”

34
35 **Explanatory text:** *It is clear that the NACC chose two extreme models out of a field of*
36 *literally dozens that were available. This violates the FDQA requirements for*
37 *“objectivity” detailed in the third paragraph of this Petition.*

38
39 **Second**, Dr. Michaels is clearly not alone in his assessment. Consider the comments of
40 government reviewers, all received and possessed by USGCRP. For example, that styled
41 **“Improper use of climate models”**, by William T. Pennell of Northwest National
42 Laboratory, submitted through DOE (John Houghton) to Melissa Taylor at USGCRP:

43
44 “Although it is mentioned in several places, greater emphasis needs to be placed
45 on the limitations that the climate change scenarios used in this assessment have
46 on its results. First, except for some unidentified exceptions, only two models are

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1 used. Second, nearly every impact of importance is driven by what is liable to
2 happen to the climate on the regional to local scale, but it is well known that
3 current global-scale models have limited ability to simulate climate effects as this
4 degree of spatial resolution. We have to use them, but I think we need to be
5 candid about their limitations. Let's take the West [cites example]...Every time
6 we show maps that indicate detail beyond the resolution of the models we are
7 misleading the reader.”

8
9 **USGCRP received** other comments by governmental “peer reviewers” affirming these
10 modeling data transgressions:

11
12 “Also, the reliance on predictions from only two climate models is dangerous”.
13 Steven J. Ghan, Staff Scientist, Atmospheric Sciences and Global Change, Pacific
14 Northwest Laboratory.

15
16 “This report relies too much on the projections from only two climate models.
17 Projections from other models should also be used in the assessment to more
18 broadly sample the range of predicted responses.” Steven J. Ghan Staff Scientist,
19 Atmospheric Sciences and Global Change, Pacific Northwest Laboratory.

20
21 “Comments on National Assessment. 1. The most critical shortcomings of the
22 assessment are the attempt to extrapolate global-scale projections down to
23 regional and sub-regional scales and to use two models which provide divergent
24 projections for key climatic elements.” Mitchell Baer, US Department of Energy,
25 Washington, DC.

26
27 “General comments: Bias of individual authors is evident. Climate variability
28 not addressed...Why were the Hadley and Canadian GCMs used? Unanswered
29 questions. Are these GCM's [sic] sufficiently accurate to make regional
30 projections? Nope”. Reviewer Stan Wullschleger (12/17/99).

31
32 William T. Pennell, Manager, Atmospheric Sciences and Global Change, Pacific
33 Northwest Laboratory, cites the that “only two models are used” as a “limitation”
34 on the product.

35
36 The final NACC currently disseminated by Commerce/NOAA shows these admonitions
37 went unheeded.

38
39 Stated simply, the climate models upon which NACC relies struck out. Strike one: they
40 can't simulate the current climate. Strike two: they predict greater and more rapid
41 warming in the atmosphere than at the surface. The opposite is happening (see *e.g.*,
42 http://www.ghcc.msfc.nasa.gov/MSU/hl_sat_accuracy.html). Strike three: they predict
43 amplified warming at the poles, which are cooling instead (see *e.g.*, <http://www.washingtonpost.com/wp-dyn/articles/A40974-2002Jan13.html>). On top of this
44 demonstrable lack of utility for their purported purpose, NACC knowingly misuses them.
45

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1 Repetition of this practice by CCSP will further violate FDQA. CCSP must build
2 protections into its system more stringent than the proffered “Guiding Principles.”
3

4 2. Failure to Perform Requisite Scientific Review Violates FDQA

5
6 USGCRP’s development of NACC drew congressional attention to particular
7 shortcomings. Specifically, leaders in the United States House of Representatives
8 repeatedly attempted to ensure USGCRP and its subsidiary bodies follow the scientific
9 method regarding particular matters, specifically the regional and sectoral analyses.
10 Indeed the concerns had become so acute that these leaders successfully promoted a
11 restriction prohibiting relevant agencies from expending appropriated monies upon the
12 matter at issue, consistent with the plain requirements of the GCRA of 1990, through
13 language in the conference report accompanying Public Law 106-74:
14

15 “None of the funds made available in this Act may be used to publish or issue an
16 assessment required under section 106 of the Global Change Research Act of
17 1990 unless (1) the supporting research has been subjected to peer review and, if
18 not otherwise publicly available, posted electronically for public comment prior to
19 use in the assessment; and (2) the draft assessment has been published in the
20 Federal Register for a 60 day public comment period.”¹
21

22 USGCRP did not perform the conditions precedent for valid science as cited in that
23 language. Instead USGCRP produced and now disseminates a NACC knowingly and
24 expressly without the benefit of the supporting science which not only is substantively
25 required but which Congress rightly insisted be performed and subject to peer review
26 prior to releasing any such assessment.
27

28 These attempts to rectify certain NACC shortcomings were made in advance of USGCRP
29 producing the NACC, but were never rectified. These failures justify Petitioners’ request
30 that USGCRP cease present and future NACC dissemination unless and until its
31 violations of FDQA are corrected. In addition to NACC violating FDQA’s “objectivity”
32 and “utility” requirements, as “influential scientific or statistical information”, NACC
33 also fails its “reproducibility” standard, setting forth transparency regarding data and
34 methods of analysis. Per OMB, this represents “a quality standard above and beyond
35 some peer review quality standards.”²

¹ House Report 106-379, the conference report accompanying H.R. 2684, Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub.L. 106-74), p. 137.

² Attachments “B” establish the record of Congress, detailing for USGCRP its more obvious scientific failures which now lead to NACC now violating FDQA, noting USGCRP’s apparent failure to comply with such conditions and seeking assurance that such circumstances would be remedied. USGCRP via OSTP drafted a response to House Science Committee Chairman Sensenbrenner, evasively failing to specifically address the concerns raised by these Members. Chairmen Sensenbrenner and Calvert specifically

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1
2 Given USGCRP’s refusal to wait for completion of the underlying science and their
3 response to the relevant oversight chairmen, it is manifest that USGCRP ignored or
4 rejected these lawmakers’ requests, including by the relevant oversight Chairmen and
5 produced a deeply flawed Assessment, knowingly and admittedly issuing a “final”
6 Assessment without having complied with Congress’s direction to incorporate the
7 underlying science styled as “regional and sectoral analyses,”³ while also admitting that
8 the requisite scientific foundation would be completed imminently. For these same
9 reasons dissemination presently violates FDQA.

10 11 3. First, Incomplete Attempt at a “NACC” Was Not in Fact Peer Reviewed

12
13 Finally, NACC suffers from having received no authentic peer review, in violation of
14 FDQA’s “objectivity” and “utility” requirements. As “influential scientific or statistical
15 information”, for these reasons NACC also fails the “reproducibility” standard, setting
16 forth transparency regarding data and methods of analysis, “a quality standard above and
17 beyond some peer review quality standards.”

18
19 Once an advisory committee was chartered pursuant to the Federal Advisory
20 Committee Act (FACA) in 1998, Dr. John Gibbons’ communication of January 8, 1998
21 to the first Designated Federal Officer (DFO) Dr. Robert Corell indicates a sense of
22 urgency was communicated to the panel by political officials. Further, statements in the
23 record and major media outlets, including but in no way limited to those from certain
24 anonymous if purportedly well placed sources, indicate a perception among involved
25 scientists that political pressures drove the timing and even content of this draft
26 document. This is manifested by the lack of opportunity to comment for parties whose
27 comment was formally requested as part of a “peer review” of NACC.

28
29 This sense of urgency is reflected in, among other places, comments the Cooler
30 Heads Coalition obtained via the Freedom of Information Act, made by parties from the
31 National Laboratories asked by the Department of Energy to comment on the Draft. In
32 addition to an emphasis on speed as opposed to deliberation, the report’s emphasis on
33 “possible calamities” to the detriment of balancing comments which were widely offered,
34 and rampant criticism of the reliance on only two significantly divergent models for the
35 pronouncements made, these comments are exemplified by the following samples from
36 well over a dozen such complaints accessed through FOIA, **also received by and in the**
37 **possession of USGCRP:**

- 38
39 1) “This review was constrained to be performed within a day and a half. This is not an
40 adequate amount of time to perform the quality of review that should be performed on
41 this size document” (Ronald N. Kickert, 12/08/99);

took issue and/or disputed these non-responses in the July 20, 2000 letter, reiterating their
request for compliance with the law’s requirements. Nonetheless, the failings persist.

³ See Attachments “B”. This despite that the two principal NACC sections are “Regions,”
and “Sections.” (see <http://www.gcric.org/nationalassessment/overvpdf/1Intro.pdf>).

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- 1
- 2 2) “During this time, I did not have time to review the two Foundation Document
- 3 Chapters” (Kickert, 12/20/99);
- 4
- 5 3) “Given the deadline I have been given for these comments, I have not been able to
- 6 read this chapter in its entirety” (William T. Pennell);
- 7
- 8 4) **“UNFORTUNATELY, THIS DOCUMENT IS NOT READY FOR RELEASE**
- 9 **WITHOUT MAJOR CHANGES”** (CAPS and bold in original)(Jae Edmonds);
- 10
- 11 5) “This is not ready to go!” (William M. Putman).
- 12

13 These comments reflect an alarming implication of timing over substance, and of a
14 product whose final content appears predetermined. Patrick Michaels’ comments, and
15 the absence of apparent change in response to his alarming findings, reinforces this
16 troubling reality. Notably, the product was released and continues to be disseminated
17 without offering an actual peer review or otherwise addressing the concerns expressed.

18
19 In conclusion, previous USGCRP efforts in this realm, particularly the National
20 Assessment on Climate Change, egregiously failed to meet FDQA and/or OMB
21 guidelines regarding Data Quality. As a consequence, Commerce/NOAA’s FDQA
22 Guidelines must prohibit continued dissemination of the NACC, through reliance,
23 reference, link, publication or other dissemination. To avoid repetition of this regrettable
24 waste of millions of taxpayer dollars, agency embarrassment, and litigation, CCSP must
25 ensure that politics is purged from future research, and that these efforts strive to meet
26 federal requirements for “sound science.”