

**COMMENTS OF THE ATTORNEYS GENERAL OF MASSACHUSETTS,
CALIFORNIA, CONNECTICUT, AND NEW YORK**

via Regulations.gov and via Electronic Mail to federalregister@ostp.eop.gov

September 9, 2026

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**Re: Proposed Amendment to the Fifth National Climate Assessment (NCA5):
Implausible High-Emission Scenario Dependence, Gold Standard Science,
and Observational Grounding, OSTP-CE-2026-0001, 91 Fed. Reg. 54,893
(Aug. 25, 2026)**

The Attorneys General of Massachusetts, California, Connecticut, and New York submit these comments in opposition to the Office of Science and Technology Policy (OSTP) and U.S. Global Change Research Program’s (USGCRP) Proposed Amendment to the Fifth National Climate Assessment (NCA5), entitled *Proposed Amendment to the Fifth National Climate Assessment (NCA5): Implausible High-Emission Scenario Dependence, Gold Standard Science, and Observational Grounding*, 91 Fed. Reg. 54,893 (Aug. 25, 2026) (Proposed Amendment).¹ The Proposed Amendment—a perfunctory seven-page document that purports to retroactively modify the comprehensive, peer-reviewed 2023 NCA5—reflects yet another attempt by this Administration to undermine the science underpinning critical public health and welfare protections. As described below, the Proposed Amendment is a rushed, procedurally flawed, and politically motivated action that cannot lawfully amend a past National Climate Assessment. Any reliance on the Proposed Amendment in future federal action would render such action arbitrary and capricious. Accordingly, the Proposed Amendment must be withdrawn.

First, the Proposed Amendment fails basic information quality requirements for National Climate Assessments. For example, National Climate Assessments are subject to OMB’s *Final Information Quality Bulletin for Peer Review*, 70 Fed. Reg. 2664 (Jan. 14, 2005) (Information Quality Bulletin), issued pursuant to the Information Quality Act.² The Information Quality Bulletin requires federal agencies to conduct a peer review before disseminating any “influential

¹ The Proposed Amendment linked in the Federal Register notice is available at: <https://perma.cc/GX92-82UA>.

² See Memorandum from Russell T. Vought, Acting Director, Off. of Mgmt. & Budget, Exec. Off. of the President, on Improving Implementation of the Information Quality Act, at 4 (Apr. 24, 2019) (OMB M-19-15) [hereinafter OMB M-19-15], <https://perma.cc/DF49-NDPP>.

scientific information” and imposes even stricter requirements for “highly influential scientific assessments.”³ National Climate Assessments are designated as “highly influential scientific assessments.”⁴ Thus, as the USGCRP has recognized, the NCA5 is “required by law to meet stringent peer review and information quality standards set by the Federal Government” as well as the Global Change Research Act of 1990, Pub. L. No. 101-606, 104 Stat. 3096-3104 (1990), and “other applicable laws and policies.”⁵ Indeed, even Executive Order 14303, *Restoring Gold Standard Science*—on which the Proposed Amendment claims to rely—and OSTP guidance implementing that Executive Order require agencies’ scientific endeavors to be “subject to unbiased peer review.”⁶

Here, the Proposed Amendment broadly “applies to all NCA5 statements, figures, tables, traceable accounts, regional summaries, public summaries, derivative federal communications, and federally funded assessment-support products that rely on RCP8.5, SSP5-8.5, or equivalent high emissions pathways.” Proposed Amendment at 2. But it blatantly ignores all information quality requirements for National Climate Assessments: it fails to specify who authored the document (though, as noted below, it appears the document was authored by artificial intelligence (AI)); it gives no indication that the original authors of the NCA5 were consulted—a serious ethical breach; it is not accompanied by a peer review report or any indication that the document was peer reviewed; it makes no mention of any interagency review; it does not reflect any involvement of the National Academies of Sciences, Engineering, and Medicine; and it contains no plan to meet applicable peer review, transparency, integrity, objectivity, and other information quality standards. And, indeed, there is reason to believe compliance with these requirements would have materially changed the amendment, as renowned climate scientists have already decried the Proposed Amendment for procedural and substantive deficiencies and, accordingly, called for its withdrawal.⁷ In short, the government cannot lawfully alter the content

³ 70 Fed. Reg. at 2675.

⁴ ALLISON R. CRIMMINS ET AL., U.S. GLOB. CHANGE RSCH. PROGRAM, IMPLEMENTATION OF FEDERAL GUIDELINES AND BEST PRACTICES FOR HIGHLY INFLUENTIAL SCIENTIFIC ASSESSMENTS IN THE FIFTH NATIONAL CLIMATE ASSESSMENT 1 (2024), <https://perma.cc/RAG2-MD9U>.

⁵ *Id.*

⁶ See *Restoring Gold Standard of Science*, 90 Fed. Reg. 22,601, 22,602 (May 29, 2025) (*Gold Standard Science* EO), at § 3(a)(vii); see also Memorandum from Michael J. Kratsios, Director, Off. of Sci. & Tech. Pol’y, to Heads of Exec. Dep’ts and Agencies, on Agency Guidance for Implementing Gold Standard Science in the Conduct & Management of Scientific Activities, at 5 (June 23, 2025), <https://perma.cc/9N53-PKKJ> (acknowledging that peer review is “critical for generating trustworthy new knowledge that minimizes bias, ensures methodological rigor, and upholds scientific standards through objective scrutiny”).

⁷ See, e.g., Comment of Marcus C. Sarofim, OSTP-CE-2026-0001 (Sep. 2, 2026); Comment of Robert E. Kopp, OSTP-CE-2026-0001 (Aug. 27, 2026).

of a highly influential scientific assessment without meeting the legal requirements that apply to the development and content of such assessments.

Second, and relatedly, the Proposed Amendment unlawfully limits public review and input, again in violation of applicable information quality and public participation requirements. It imposes a 3500-word limit on comments, provides a mere 15-day comment period, and asserts that comments will not receive a response. *See* 91 Fed. Reg. at 54,893. That curtailed process stands in stark contrast with the extensive procedures⁸ adopted in preparing the NCA5 to secure robust public comment, provide fulsome responses to those comments, and otherwise ensure compliance with the public participation requirements of the Information Quality Act,⁹ the 2004 OMB Final Information Quality Bulletin for Peer Review, M-05-03, and OMB M-19-15. For example, the USGCRP solicited public comments on the initial framework and multiple drafts of the NCA5, including twelve weeks of public comment on the NCA5 concurrent with peer review.¹⁰ *See California by & through Becerra*, 381 F. Supp. 3d 1153, 1177 (N.D. Cal. 2019) (length of comment period in prior rulemaking processes relevant in evaluating the adequacy of comment periods) (citing *N.C. Growers' Ass'n, Inc. v. United Farm Workers*, 702 F.3d 755, 770 (4th Cir. 2012)). The deficient process here has deprived the public of a meaningful opportunity for input and further impugned the reliability of the Proposed Amendment.

Third, the Proposed Amendment was developed by AI, raising serious questions about its reliability. For example, the metadata in the Proposed Amendment linked in the Federal Register publication states that the document was “generated by python-docx,”¹¹ an AI tool that generates Microsoft word documents.¹² The Proposed Amendment fails to disclose how AI was used, what data AI had access to and was trained on, and how the scientific rigor of the product was nonetheless assured; nor could it, given the information quality flaws noted above.

Together, these infirmities make clear that the Proposed Amendment is not a serious, scientifically rigorous attempt to reflect updated science, but rather the latest rushed, politically motivated attempt to discredit the scientific underpinnings of important health-protective policies and regulations. Indeed, the Proposed Amendment claims as its justification changes in climate policy, renewable energy deployment, efficiency improvements, and “extreme” assumptions regarding coal expansion, but nowhere acknowledges this Administration’s simultaneous efforts

⁸ Allison R. Crimmins et al., *supra* note 3, at 3–8.

⁹ Section 515 of Appendix C in the Consolidated Appropriations Act, 2001. Pub. L. No. 106-554, 114 Stat. 2763A-153–154 (2000), <https://perma.cc/U67P-GDU7>.

¹⁰ *See, e.g.*, 85 Fed. Reg. 41,567 (July 10, 2020); 87 Fed. Reg. 940 (Jan. 7, 2022); 87 Fed. Reg. 67,873 (Nov. 10, 2022).

¹¹ *See* Proposed Amendment (metadata comments and author).

¹² *See also* Comment of Robert E. Kopp, *supra* note 6, at 6.

to rescind climate policies, defund climate research, halt renewable energy developments, repeal energy efficiency requirements, promote coal expansion, and stymie international climate policy. Like the Department of Energy's ill-fated Climate Working Group,¹³ the Proposed Amendment should be abandoned. Should OSTP and the USCGRP nonetheless finalize the Proposed Amendment, any reliance on the fatally flawed amendment in subsequent federal action would render such action arbitrary and capricious.

Respectfully submitted,

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¹³ Following revelation of the Climate Working Group and its secret preparation of a report purporting to discredit climate science in service of deregulatory action, the Group was immediately challenged in federal court and dissolved within months. *See* Decl. of Jeff Novak, Ex. 1 at 1, *Env't Def. Fund v. Wright*, No. 1:25-cv-12249 (D. Mass. Sep. 4, 2025), ECF No. 44-1. The United States District Court for the District of Massachusetts determined that the Climate Working Group had violated multiple transparency, impartiality, and open-record requirements under the Federal Advisory Committee Act. *Env't Def. Fund v. Wright*, No. 1:25-cv-12249-WGY, 2026 WL 251626, at *1 (D. Mass. Jan. 30, 2026).

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