

111TH CONGRESS
1ST SESSION

H. R. 2685

To establish a National Oceanic and Atmospheric Administration and a National Climate Enterprise, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 2009

Ms. BORDALLO (for herself, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, Mr. FARR, Mrs. CHRISTENSEN, Mr. GRIJALVA, Ms. HIRONO, Ms. SHEA-PORTER, Mr. HEINRICH, and Mr. PIERLUISI) introduced the following bill; which was referred to the Committee on Science and Technology, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a National Oceanic and Atmospheric Administration and a National Climate Enterprise, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Climate and Ocean Research and Coordination Act of
6 2009”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL OCEANIC AND ATMOSPHERIC
 ADMINISTRATION ORGANIC ACT

Sec. 101. National Oceanic and Atmospheric Administration.
 Sec. 102. Functions.
 Sec. 103. Administration leadership.
 Sec. 104. National Weather Service.
 Sec. 105. Science Advisory Board.
 Sec. 106. Restructuring plan.
 Sec. 107. Reprogramming requests.
 Sec. 108. Savings provisions.
 Sec. 109. Report.
 Sec. 110. Function defined.

TITLE II—NATIONAL CLIMATE ENTERPRISE ACT

Sec. 201. Short title.
 Sec. 202. Findings.
 Sec. 203. Purposes.
 Sec. 204. National Climate Enterprise.
 Sec. 205. Quality assurance program.
 Sec. 206. Enterprise Advisory Board.
 Sec. 207. Report to the Congress.
 Sec. 208. Interagency financing and agreements.
 Sec. 209. Enhancing administration and management.
 Sec. 210. Application with other Federal laws.
 Sec. 211. Application with other agreements.
 Sec. 212. Relationship to other authorities.
 Sec. 213. Authorization of appropriations.
 Sec. 214. Definitions.

3 **TITLE I—NATIONAL OCEANIC**
 4 **AND ATMOSPHERIC ADMINIS-**
 5 **TRATION ORGANIC ACT**

6 **SEC. 101. NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-**
 7 **ISTRATION.**

8 (a) IN GENERAL.—The National Oceanic and Atmos-
 9 pheric Administration, as in effect immediately before the
 10 enactment of this Act, shall be an administration in the
 11 Department of Commerce. Except as otherwise provided

1 in this Act (including the amendments and repeals made
2 by this Act)—

3 (1) the Administration shall have the adminis-
4 trative structure, officers, functions, and authorities
5 it had immediately before the enactment of this Act,
6 including under Reorganization Plan No. 4 of 1970
7 (5 U.S.C. App.); and

8 (2) the Administrator shall have the authority,
9 subject to the availability of appropriations—

10 (A) to create, support, and maintain joint
11 centers, and to enter into and perform con-
12 tracts, leases, grants, or cooperative agreements
13 on terms the Administrator considers appro-
14 priate;

15 (B) to disseminate information and con-
16 duct education and outreach in direct support
17 of the purposes of this Act; and

18 (C) to accept interagency financing of
19 boards or similar groups to carry out inter-
20 agency activities for which the Administration
21 serves as a lead agency.

22 (b) MISSION.—The Administration shall be the civil-
23 ian agency of the Federal Government principally respon-
24 sible for—

1 (1) providing to the Nation oceanic, weather,
2 atmospheric, and climate services and research;

3 (2) monitoring changes in the Earth's environ-
4 ment; and

5 (3) conducting and supporting research, con-
6 servation, management, education and outreach re-
7 garding ocean and coastal resources, weather, and
8 climate.

9 **SEC. 102. FUNCTIONS.**

10 (a) IN GENERAL.—The Administrator shall perform
11 the following functions to carry out the mission set forth
12 in section 101(b) in a coordinated, integrated, and eco-
13 system-based manner for the benefit of the Nation:

14 (1) Management, conservation, protection, and
15 restoration of ocean and coastal resources, including
16 living marine resources, habitats, maritime heritage
17 resources, and ocean ecosystems.

18 (2) Observation, monitoring, assessment, fore-
19 casting, prediction, operations, and exploration for
20 ocean, coastal, and atmospheric environments in-
21 cluding weather, space weather, climate, navigation,
22 and marine resources.

23 (3) Research, education and outreach, develop-
24 ment of hydrographic products and services, tech-
25 nical assistance, technology development, and inno-

1 vation activities relating to ocean and atmospheric
2 environments including basic and applied scientific
3 research and activities that support other agency
4 functions and missions.

5 (b) STATE AND FEDERAL COORDINATION.—The Ad-
6 ministrator shall ensure that Administration programs
7 and activities collaborate with State and Federal programs
8 to encourage cooperation, coordination, and integration of
9 State and Federal coastal, oceanic, and atmospheric pro-
10 grams, including the planning and implementation of re-
11 gional and ecosystem-based activities.

12 (c) INTERNATIONAL COORDINATION.—

13 (1) COOPERATION BY ADMINISTRATOR.—The
14 Administrator shall cooperate to the fullest extent
15 practicable with the Secretary of State in providing
16 representation at all meetings and conferences relat-
17 ing to actions or activities described in this Act in
18 which representatives of the United States and for-
19 eign countries participate.

20 (2) CONSULTATION WITH ADMINISTRATOR.—
21 The Secretary of State and any other officer of the
22 United States with responsibility for agreements,
23 treaties, or understandings with foreign nations and
24 international organizations shall consult with the
25 Administrator whenever the subject matter or activ-

1 ity involved relates to a function of the Adminis-
2 trator.

3 (3) AUTHORITY OF SECRETARY OF COMMERCE
4 NOT AFFECTED.—This subsection does not affect
5 the authority of the Secretary of Commerce with re-
6 spect to international fishing agreements.

7 (d) PARTNERSHIPS.—The Administrator may pro-
8 mote, support, and enter into agreements with academia,
9 industry, conservation groups, educators, and other inter-
10 ested persons to improve the effectiveness of Administra-
11 tion programs and activities and enhance public awareness
12 and understanding of Administration science, service, and
13 stewardship missions.

14 **SEC. 103. ADMINISTRATION LEADERSHIP.**

15 (a) UNDER SECRETARY OF COMMERCE FOR OCEANS
16 AND ATMOSPHERE AND ADMINISTRATOR.—

17 (1) IN GENERAL.—There shall be, as the Ad-
18 ministrator and head of the Administration, an
19 Under Secretary of Commerce for Oceans and At-
20 mosphere. The Administrator shall be appointed by
21 the President, by and with the advice and consent
22 of the Senate.

23 (2) FUNCTIONS.—The Administrator, as head
24 of the Administration, shall be responsible for—

25 (A) the functions under section 102(a);

1 (B) general management and supervision
2 of the operations of the Administration;

3 (C) policy development and guidance;

4 (D) formulation, guidance, and execution
5 of budget for the Administration;

6 (E) serving as the Department of Com-
7 merce official for all ocean and atmosphere
8 issues with other elements of the Department of
9 Commerce and with other Federal agencies,
10 State, tribal, and local governments, and the
11 public; and

12 (F) such other duties with respect to the
13 Administration as the Secretary may prescribe.

14 (b) ASSISTANT SECRETARY OF COMMERCE FOR
15 OCEANS AND ATMOSPHERE AND DEPUTY ADMINIS-
16 TRATOR.—

17 (1) IN GENERAL.—There shall be, as Deputy
18 Administrator of the Administration, an Assistant
19 Secretary of Commerce for Oceans and Atmosphere.
20 The Deputy Administrator shall be appointed by the
21 President, by and with the advice and consent of the
22 Senate. The Deputy Administrator shall be the Ad-
23 ministrators first assistant for purposes of sub-
24 chapter III of chapter 33 of title 5, United States
25 Code.

1 (2) FUNCTIONS.—The Deputy Administrator
2 shall—

3 (A) serve as an advisor to the Adminis-
4 trator on all program and policy issues;

5 (B) perform such functions and exercise
6 such powers as the Administrator may pre-
7 scribe; and

8 (C) act as Administrator during the ab-
9 sence or disability of the Administrator or in
10 the event of a vacancy in the office of Adminis-
11 trator.

12 (c) DEPUTY UNDER SECRETARY OF COMMERCE FOR
13 OCEANS AND ATMOSPHERE AND CHIEF OPERATING OF-
14 FICER.—

15 (1) IN GENERAL.—There shall, be as the Chief
16 Operating Officer of the Administration, a Deputy
17 Under Secretary of Commerce for Oceans and At-
18 mosphere. The Deputy Under Secretary shall be ap-
19 pointed by the Secretary. The position of Deputy
20 Under Secretary shall be a Senior Executive Service
21 position authorized under section 3133 of title 5,
22 United States Code.

23 (2) FUNCTIONS.—The Deputy Under Secretary
24 shall—

1 (A) ensure the timely and effective imple-
2 mentation of Administration policies and objec-
3 tives;

4 (B) be responsible for all aspects of the
5 Administration's operations and management,
6 including budget, financial operations, informa-
7 tion services, facilities, human resources, pro-
8 curements, and associated services;

9 (C) act as the Assistant Secretary during
10 the absence or disability of the Assistant Sec-
11 retary or in the event of a vacancy in such posi-
12 tion; and

13 (D) perform such other duties as the Ad-
14 ministrator shall prescribe.

15 (d) DEPUTY ASSISTANT SECRETARIES.—

16 (1) IN GENERAL.—There shall be in the Admin-
17 istration three Deputy Assistant Secretaries.

18 (2) FUNCTIONS.—The Secretary shall—

19 (A) designate the functions of each Deputy
20 Assistant Secretary; and

21 (B) assign to each Deputy Assistant Sec-
22 retary one of the functions under paragraphs
23 (1), (2), and (3) of section 102(a).

24 (3) QUALIFICATIONS.—The Deputy Assistant
25 Secretaries shall be appointed by the Secretary from

1 among individuals who are qualified by reason of
2 background and experience to direct the implementa-
3 tion and administration of the functions for which
4 they are responsible. The positions of Deputy Assist-
5 ant Secretaries shall be Senior Executive Service po-
6 sitions authorized under section 3133 of title 5,
7 United States Code.

8 (e) GENERAL COUNSEL.—

9 (1) IN GENERAL.—There shall be in the Admin-
10 istration a General Counsel. The General Counsel
11 shall be appointed by the Secretary. The General
12 Counsel shall be paid at the rate of basic pay for
13 level V of the Executive Schedule.

14 (2) FUNCTIONS.—The General Counsel shall—

15 (A) serve as the chief legal officer of the
16 Administration for all legal matters that arise
17 in connection with the conduct of the functions
18 of the Administration; and

19 (B) perform such other functions and exer-
20 cise such powers as the Administrator may pre-
21 scribe.

22 (f) ADDITIONAL POSITIONS.—The Administrator
23 may appoint individuals to such additional positions in the
24 Administration as may be appropriate to reflect any re-
25 structuring of the Administration.

1 (g) CONFORMING AMENDMENTS TO REORGANIZA-
2 TION PLAN.—

3 (1) REORGANIZATION PLAN NO. 4 OF 1970.—Re-
4 organization Plan No. 4 of 1970 (5 U.S.C. App.) is
5 amended—

6 (A) in section 1, by adding at the end the
7 following:

8 “(g) The functions vested in the Secretary of the In-
9 terior and the Secretaries by the Act of June 8, 1906 (16
10 U.S.C. 433 et seq.), popularly known as the Antiques Act
11 of 1906, relating to national monuments comprised of
12 ocean or coastal resources.”; and

13 (B) in section 2, by striking subsection (e).

14 (2) TITLE 5, U.S.C.—Section 5316 of title 5,
15 United States Code, is amended by striking “Assist-
16 ant Administrator for Coastal Zone Management,”
17 and all that follows through “Assistant Administra-
18 tors (3), National Oceanic and Atmospheric Admin-
19 istration.”.

20 **SEC. 104. NATIONAL WEATHER SERVICE.**

21 (a) IN GENERAL.—There shall be in the Administra-
22 tion the National Weather Service.

23 (b) MISSION.—The mission of the National Weather
24 Service is to provide weather, water, climate, tsunami, and
25 space weather forecasts and warnings for the United

1 States, its territories, adjacent waters, and ocean areas for
2 the protection of life and property and the enhancement
3 of the national economy. In carrying out the mission of
4 the National Weather Service, the Administrator shall
5 seek to ensure that the National Weather Service—

6 (1) provides timely and accurate weather,
7 water, climate, tsunami, and space weather fore-
8 casts; and

9 (2) provides timely and accurate warnings of
10 natural hazards related to weather, water, climate,
11 and tsunamis, and of space weather hazards.

12 (c) FUNCTIONS.—To accomplish the mission de-
13 scribed in section 101(b), and in addition to the functions
14 described in section 102(a), the functions of the National
15 Weather Service shall include—

16 (1) maintaining a network of local weather fore-
17 cast offices;

18 (2) maintaining a network of observation sys-
19 tems to collect weather, water, and climate data;

20 (3) operating national centers to deliver guid-
21 ance, forecasts, warnings, and analysis about weath-
22 er, water, climate, tsunami, and space weather phe-
23 nomena for use by the Administration and the pub-
24 lic;

1 (4) providing information to Federal, State, and
2 local agencies and other organizations responsible
3 for emergency preparedness and response;

4 (5) conducting and supporting applied research
5 to facilitate the rapid incorporation of weather and
6 climate science advances into operational tools; and

7 (6) other functions to serve the mission of the
8 National Weather Service described in subsection
9 (b).

10 **SEC. 105. SCIENCE ADVISORY BOARD.**

11 There shall be within the Administration a Science
12 Advisory Board, in accordance with the document entitled
13 “U.S. Department of Commerce Charter of the NOAA
14 Science Advisory Board”, dated August 9, 2005.

15 **SEC. 106. RESTRUCTURING PLAN.**

16 (a) IN GENERAL.—The Administrator shall develop
17 a plan and budget setting forth a proposal for restruc-
18 turing the Administration and its programs, as they ex-
19 isted immediately before enactment of this title, that im-
20 plement this title, and consider the recommendations of
21 the U.S. Commission on Ocean Policy so as to provide
22 improved services to the Nation.

23 (b) CONTENT.—The plan shall—

24 (1) describe leadership positions and roles, and
25 program offices and duties;

1 (2) consider—

2 (A) regional approaches to management
3 and ecosystem-based management;

4 (B) coordination with outside entities, both
5 nationally and internationally; and

6 (C) needs to expand or downsize employees
7 or facilities (or both);

8 (3) be consistent with section 102 and the other
9 provisions of this Act, and maximize the efficiency
10 with which the Administration carries out and
11 assures the effectiveness of the functions of the Ad-
12 ministrator described in section 102(a);

13 (4) improve the sharing of research and other
14 information and the compilation of available data,
15 that is of use across programmatic themes; and

16 (5) to the maximum extent practicable, elimi-
17 nate duplication of effort or overlapping efforts
18 among offices.

19 (c) CONSULTATION.—The Administrator shall de-
20 velop the plan in consultation with interested persons, in-
21 cluding representatives of the States, academia, industry,
22 conservation organizations, and labor organizations cer-
23 tified as the exclusive representatives of Administration
24 employees pursuant to chapter 71 of title 5, United States
25 Code.

1 (d) SCHEDULE.—

2 (1) IN GENERAL.—Not later than 18 months
3 after the date of enactment of this Act, the Adminis-
4 trator shall develop the plan and shall publish the
5 plan in the Federal Register.

6 (2) PUBLIC COMMENT.—The Federal Register
7 notice shall solicit comments for a period of 60 days.

8 (3) FINAL PLAN.—Not later than 120 days
9 after the expiration date of the comment period de-
10 scribed in paragraph (2), the Administrator shall
11 complete a final plan that takes into account the
12 comments received.

13 (4) TRANSMITTAL.—Upon completing the final
14 plan, the Administrator shall—

15 (A) transmit the final plan, and an expla-
16 nation of how the Administrator addressed each
17 issue raised by the public comments received, to
18 the Committee on Commerce, Science, and
19 Transportation of the Senate and the Commit-
20 tees on Science and Technology and on Natural
21 Resources of the House of Representatives for
22 review; and

23 (B) publish the final plan and explanation
24 in the Federal Register.

25 (e) REPORTING.—

1 (1) ADMINISTRATION INTERNAL REVIEW.—
2 Once every 3 years after implementation of the reor-
3 ganization plan, the Administrator shall transmit a
4 report to Congress assessing the effectiveness and
5 efficiency of the Administration in carrying out its
6 functions and fulfilling its mission, as set forth in
7 section 101(b).

8 (2) GOVERNMENT ACCOUNTABILITY OFFICE RE-
9 VIEW.—Not later than 3 years after the Administra-
10 tion implements the reorganization plan, and every
11 6 years thereafter, the Comptroller General of the
12 United States shall conduct an independent review
13 of the effectiveness and efficiency of the Administra-
14 tion in fulfilling its mission, as set forth in section
15 101(b), and carrying out the functions set forth in
16 section 102. Upon completing the review, the Comp-
17 troller General shall transmit a report to Congress
18 with his or her findings.

19 **SEC. 107. REPROGRAMMING REQUESTS.**

20 Whenever the Administrator transmits a budget re-
21 programming request to the Appropriations Committees
22 of the House of Representatives and the Senate, the Ad-
23 ministrator shall simultaneously submit a copy of the re-
24 quest to the Committee on Science and Technology and
25 the Committee on Natural Resources of the House of Rep-

1 representatives and the Committee on Commerce, Science,
2 and Transportation of the Senate.

3 **SEC. 108. SAVINGS PROVISIONS.**

4 Except as otherwise provided in this Act, all rules and
5 regulations, determinations, standards, contracts, certifi-
6 cations, authorizations, appointments, delegations, results
7 and findings of investigations, and other actions duly
8 issued, made, or taken by or pursuant to or under the
9 authority of any statute that resulted in the assignment
10 of functions or activities to the Secretary of Commerce,
11 the Department of Commerce, the Under Secretary of
12 Commerce for Oceans and Atmosphere, or any other offi-
13 cial of the National Oceanic and Atmospheric Administra-
14 tion, as are in effect immediately before the enactment of
15 this Act, shall continue in full force and effect after enact-
16 ment of this Act until modified or rescinded.

17 **SEC. 109. REPORT.**

18 Not later than 1 year after the date of the enactment
19 of this Act, the Administrator shall submit a report to the
20 Congress on the implementation of this Act, including
21 such recommendations as the Administrator considers ap-
22 propriate regarding changes to existing law (including
23 granting of additional authority to the Administrator).

1 **SEC. 110. FUNCTION DEFINED.**

2 In this title the term “function” includes authorities,
3 powers, rights, privileges, immunities, programs, projects,
4 activities, duties, and responsibilities.

5 **TITLE II—NATIONAL CLIMATE**
6 **ENTERPRISE ACT**

7 **SEC. 201. SHORT TITLE.**

8 This title may be cited as the “National Climate En-
9 terprise Act of 2009”.

10 **SEC. 202. FINDINGS.**

11 The Congress finds the following:

12 (1) Warming of the climate system is unequivocal
13 and will impact physical infrastructure, eco-
14 system services, and human well-being.

15 (2) In the face of climate change, the public
16 and decisionmakers need access to scientifically
17 based data, meta-data, information, products, and
18 services that are authoritative, timely, useful, and
19 available at various temporal and spatial scales and
20 which can be applied for human-built and natural
21 resource development and management and other
22 uses.

23 (3) Currently, there is no single source of cred-
24 ible information that will allow public and private
25 end-users to make decisions on how to adapt to or
26 mitigate the impacts of climate change, nor a mech-

1 anism for public and private end-users to articulate
2 their information needs to the Federal Government.

3 (4) Federal leadership is needed to coordinate
4 climate information among Federal agencies; to es-
5 tablish a climate clearinghouse for climate data,
6 meta-data, and information; to disseminate useful
7 climate data, meta-data, information, products, and
8 services to meet end-user needs; and to support soci-
9 ety’s needs for reliable information to guide further
10 adaptation to and mitigation of the impacts of cli-
11 mate change.

12 (5) A public/private enterprise comprised of
13 Federal and non-Federal components, abiding by a
14 set of common agreements, will provide the nec-
15 essary accountability, reliability, flexibility, and
16 adaptability to be able to provide climate and cli-
17 mate impact data, meta-data, information, products,
18 and services that address adaptation and mitigation
19 needs that vary dramatically across different regions
20 of the country, among different stakeholders, and at
21 different scales of resolution.

22 **SEC. 203. PURPOSES.**

23 The purposes of this title are to establish a National
24 Climate Enterprise that will—

1 (1) advance the ability of the Federal Govern-
2 ment, the Nation, and the world to forecast natural
3 and human-induced climate, climate change, and cli-
4 mate variability and to understand climate impacts
5 at regional and local scales to improve our ability to
6 respond to, adapt to, and plan for the protection,
7 conservation and management of natural resources
8 and ecosystem services in a dynamic, changing envi-
9 ronment and to effectively carry out the intent of—

10 (A) the Coastal Zone Management Act of
11 1972;

12 (B) the Coral Reef Conservation Act of
13 1999;

14 (C) the Dingell-Johnson Sport Fish Res-
15 toration Act;

16 (D) the Endangered Species Act of 1973;

17 (E) the Federal Lands Policy and Manage-
18 ment Act of 1976;

19 (F) the Fish and Wildlife Act of 1956;

20 (G) the Fish and Wildlife Coordination
21 Act;

22 (H) the Magnuson-Stevens Fishery Con-
23 servation and Management Act;

24 (I) the Marine Mammal Protection Act of
25 1972;

- 1 (J) the Migratory Bird Treaty Act;
- 2 (K) the National Marine Sanctuaries Act;
- 3 (L) the National Park Service Organic
4 Act;
- 5 (M) the National Reclamation Act of 1902;
- 6 (N) the National Wildlife Refuge System
7 Administration Act of 1966;
- 8 (O) the Pittman-Robertson Wildlife Res-
9 toration Act; and
- 10 (P) other Acts that conserve and manage
11 natural resources;
- 12 (2) provide scientifically based, authoritative,
13 timely, and useful climate and climate impact data,
14 meta-data, information, products, and services to
15 Federal agencies, non-Federal contributors, and
16 public and private end-users;
- 17 (3) be comprised of Federal agencies and non-
18 Federal contributors to—
- 19 (A) expand the ability of the Federal Gov-
20 ernment to do research and gather data, meta-
21 data, and information relevant to climate, cli-
22 mate change, climate variability, and impacts
23 on built and natural systems at multiple tem-
24 poral and spatial scales;

1 (B) standardize climate and climate impact
2 data, meta-data, and information acquisition
3 across Federal agencies, non-Federal contribu-
4 tors, and internationally;

5 (C) integrate climate and climate impact
6 data, meta-data, and information into a com-
7 prehensive National Climate Data Network that
8 is interoperable among Federal agencies, non-
9 Federal contributors, and public and private
10 end-users;

11 (D) provide global and national climate
12 and climate impact data, meta-data, informa-
13 tion, products, and services to Federal agencies,
14 non-Federal contributors, and public and pri-
15 vate end-users to enhance and manage natural
16 resources in a dynamic, changing environment;

17 (E) provide regional to local climate and
18 climate impact data, meta-data, information,
19 products, services, decision support tools, com-
20 munications networks, and outreach support to
21 public and private end-users directly and
22 through non-Federal contributors;

23 (F) coordinate Federal agency activity with
24 public and private end-users of climate and cli-
25 mate impact data, meta-data, and information,

1 including researchers, government, nongovern-
2 ment, industry, tribal groups, and public and
3 private end-users;

4 (G) establish and operate a program of na-
5 tional and regional climate assessments, includ-
6 ing climate information gap analyses and vul-
7 nerability assessments; and

8 (H) conduct education and outreach to
9 public and private end-users about climate and
10 climate impact data, meta-data, information,
11 products, and services to inform natural re-
12 source management and other decisionmaking
13 in the face of climate change.

14 **SEC. 204. NATIONAL CLIMATE ENTERPRISE.**

15 (a) ESTABLISHMENT.—The President shall establish
16 a National Climate Enterprise to coordinate international,
17 Federal, and non-Federal activity to provide scientifically
18 based, authoritative, timely, and useful climate and cli-
19 mate impact data, meta-data, information, products, and
20 services to Federal agencies, non-Federal contributors,
21 and public and private end-users that will facilitate better
22 forecasting of climate, climate change, and climate varia-
23 bility and to understand climate impacts at regional and
24 local scales to improve our ability to respond to, adapt to,
25 and plan for the protection, conservation, and manage-

1 ment of natural resources and ecosystem services in a dy-
2 namic, changing environment.

3 (b) ENTERPRISE ELEMENTS.—

4 (1) IN GENERAL.—To fulfill the purposes of
5 this title, the Enterprise shall consist of an Inter-
6 departmental Oversight Board, an Interagency Co-
7 ordinating Committee, and a Climate Operations Of-
8 fice established by this subsection, and non-Federal
9 contributors.

10 (2) INTERDEPARTMENTAL OVERSIGHT
11 BOARD.—

12 (A) FUNCTION.—The Interdepartmental
13 Oversight Board shall—

14 (i) establish a broad policy framework,
15 principles for engagement, and priorities,
16 including annual and long-term priorities
17 for the Enterprise;

18 (ii) consider international climate pol-
19 icy and standards in implementing clause
20 (i); and

21 (iii) develop and transmit to the Con-
22 gress at the time of submission of the
23 President’s annual budget request under
24 section 1105 of title 31, United States
25 Code, an annual coordinated, comprehen-

1 sive budget to operate all elements of the
2 Enterprise identified in paragraph (1), tak-
3 ing into account existing programs and
4 new initiatives identified by the Inter-
5 agency Coordinating Committee, the Cli-
6 mate Operations Office, and non-Federal
7 contributors.

8 (B) COMPOSITION.—The Board shall in-
9 clude Secretaries and Administrators from de-
10 partments and independent agencies of the
11 Federal Government, as specified by the Presi-
12 dent, with existing climate-related functions.

13 (C) CHAIR.—The Board shall be chaired
14 by the Director of the Office of Science and
15 Technology Policy.

16 (D) ADMINISTRATION.—The Board shall
17 meet no less than once per year.

18 (3) INTERAGENCY COORDINATING COM-
19 MITTEE.—

20 (A) FUNCTION.—The broad policy frame-
21 work and priorities established by the Board
22 under paragraph (2) shall guide the actions of
23 the Interagency Coordinating Committee. The
24 Interagency Coordinating Committee—

1 (i) shall establish a research strategy
2 for Federal agencies to understand and
3 predict climate change, climate variability,
4 and climate impacts, including applied re-
5 search and development of climate prod-
6 ucts and services that effectively meet pub-
7 lic and private end-user needs at a range
8 of spatial and temporal scales;

9 (ii) shall establish a strategy for a Na-
10 tional Climate Data Network to improve
11 and integrate climate and climate impact
12 data, meta-data, and information collec-
13 tion, modeling, assessment, and predictive
14 capabilities at a range of spatial and tem-
15 poral scales;

16 (iii) shall establish a strategic plan for
17 Federal agency and non-Federal contrib-
18 utor collaboration;

19 (iv) shall establish required observa-
20 tion data, meta-data, and information vari-
21 ables to be gathered by Federal and non-
22 Federal contributors to be integrated into
23 the National Climate Data Network;

24 (v) shall establish protocols and stand-
25 ards for data, meta-data, and information

1 acquisition, processing, and management,
2 that are adaptable to emerging climate and
3 climate impact data, meta-data, and infor-
4 mation;

5 (vi) shall develop eligibility require-
6 ments, contract certification standards,
7 and compliance procedures for non-Federal
8 contributors to become incorporated into
9 the Enterprise;

10 (vii) shall establish protocols and
11 standards for non-Federal contributors to
12 produce Enterprise-certified climate and
13 climate impact data, meta-data, informa-
14 tion, products, or services to meet inter-
15 national, regional, and local public and pri-
16 vate end-user needs;

17 (viii) may, in consultation with the
18 Enterprise Advisory Board, develop a
19 framework for regional coordination of
20 non-Federal contributors, including the es-
21 tablishment of regional offices to coordi-
22 nate between the Climate Operations Of-
23 fice, non-Federal contributors, and public
24 and private end-users, if collection and de-
25 livery of data, meta-data, information,

1 products, and services is needed and cost-
2 effective at a regional scale;

3 (ix) may create subcommittees within
4 the Interagency Coordinating Committee
5 to carry out the functions under this sub-
6 paragraph;

7 (x) shall develop performance objec-
8 tives and evaluation criteria to periodically
9 review and evaluate all non-Federal con-
10 tributors;

11 (xi) shall establish a public-private use
12 policy that defines processes for making
13 decisions about the roles of the Federal
14 Government and non-Federal contributors
15 in providing to end-user communities cli-
16 mate and climate impact data, meta-data,
17 information, products, and services related
18 to the Enterprise, and shall publish such
19 policy in the Federal Register for public
20 comment for a period not less than 60
21 days;

22 (xii) shall ensure collaboration among
23 Federal agencies participating in the ac-
24 tivities of the Interagency Coordinating
25 Committee; and

1 (xiii) shall ensure consistency between
2 the broad policy framework and priorities
3 developed by the Board under paragraph
4 (2)(A)(i) and the data, meta-data, and in-
5 formation parameters, standards, and pro-
6 tocols established by the Interagency Co-
7 ordinating Committee and the Climate Op-
8 erations Office.

9 (B) COMPOSITION.—The Interagency Co-
10 ordinating Committee shall include members
11 designated by the Secretaries on the Board and
12 members from the non-Federal contributors
13 within the Enterprise.

14 (C) CHAIR.—The Board shall designate an
15 Interagency Coordinating Committee Chair by
16 formal vote from among the members of the
17 Interagency Coordinating Committee, who shall
18 be appointed for a 2-year term.

19 (D) ADMINISTRATION.—The Interagency
20 Coordinating Committee shall meet no less than
21 twice per year—

22 (i) at the request of the Board; and

23 (ii) as determined necessary by the
24 Chair.

1 (4) CLIMATE OPERATIONS OFFICE FUNCTIONS,
2 GENERALLY.—The Climate Operations Office
3 shall—

4 (A) manage the daily operations of the En-
5 terprise to implement the strategies, protocols,
6 and standards developed by the Interagency Co-
7 ordinating Committee;

8 (B) function as the single point of contact
9 for Federal agencies, non-Federal contributors
10 and public and private end-users to ensure ac-
11 countability, reliability, flexibility, and trans-
12 parency;

13 (C) be the National Oceanic and Atmos-
14 pheric Administration and operated by the Ad-
15 ministrator;

16 (D) manage the National Climate Data
17 Network, in cooperation with other appropriate
18 Federal agencies designated by the President,
19 which shall make available data, meta-data, and
20 information that are not otherwise restricted,
21 and in accordance with the strategy developed
22 by the Interagency Coordinating Committee
23 under paragraph (3)(A)(ii) and ensure that—

24 (i) all data, meta-data, and informa-
25 tion collected by Federal and non-Federal

1 contributors adheres to standards estab-
2 lished in accordance with the Quality As-
3 surance Program established under section
4 205, and such data, meta-data, and infor-
5 mation is processed, stored, integrated,
6 and made available to other Federal agen-
7 cies, as appropriate; and

8 (ii) climate and climate impact data,
9 meta-data, and information will be devel-
10 oped into products and services that are
11 appropriate to inform Federal agencies,
12 non-Federal contributors, and public and
13 private end-users;

14 (E) establish procedures to regularly con-
15 duct gap analyses and vulnerability assessments
16 to climate change at regional to national scales;

17 (F) establish procedures to solicit public
18 and private end-users to identify—

19 (i) priorities for climate research;

20 (ii) emerging needs expressed by Fed-
21 eral agencies and non-Federal contributors
22 to manage natural resources and plan for
23 climate change;

1 (iii) emerging needs for new climate
2 information, products, and services as
3 identified by scientific research; and

4 (iv) other needs within the scope of
5 operations of the Enterprise;

6 (G) have the authority, subject to the
7 availability of appropriations, to enter into and
8 oversee contracts, leases, grants, or cooperative
9 agreements with non-Federal contributors, as
10 appropriate, to support the purposes of this
11 title;

12 (H) have the authority to establish a feder-
13 ally funded research and development center or
14 network of centers, or similar support mecha-
15 nisms;

16 (I) develop, in consultation with the Advi-
17 sory Board, and implement a merit-based, com-
18 petitive funding process to support the develop-
19 ment and operation of non-Federal contributors
20 in the Enterprise;

21 (J) provide opportunities for competitive
22 grants and contracts for—

23 (i) climate and climate impact re-
24 search;

1 (ii) development of new climate mod-
2 els; or

3 (iii) development and testing of inno-
4 vative climate products and services;

5 (K) develop and implement a program of
6 public education and outreach to inform the
7 public and private end-users and the general
8 public of Enterprise data, meta-data, informa-
9 tion, products, and services, and their applica-
10 tions to inform decisionmaking; and

11 (L) provide staff support to the Inter-
12 departmental Oversight Board and the Inter-
13 agency Coordinating Committee.

14 (5) NON-FEDERAL CONTRIBUTORS.—

15 (A) FUNCTIONS.—The non-Federal con-
16 tributors shall—

17 (i) gather, process, and disseminate,
18 in accordance with protocols and national
19 standards established by the Interagency
20 Coordinating Committee, climate and cli-
21 mate impact data, meta-data, information,
22 products, and services to meet public and
23 private end-user needs;

24 (ii) provide climate and climate im-
25 pact data, meta-data, and information to

1 the National Climate Data Network in ac-
2 cordance with protocols and standards es-
3 tablished by the Interagency Coordinating
4 Committee; and

5 (iii) demonstrate an organizational
6 structure and operational plan capable
7 of—

8 (I) gathering required data,
9 meta-data, and information;

10 (II) supporting and integrating
11 all aspects of the Enterprise; and

12 (III) developing products and
13 services that reflect the needs of pub-
14 lic and private end-users, while adher-
15 ing to such national standards.

16 (B) COMPOSITION.—Non-Federal contribu-
17 tors may include purveyors and public and pri-
18 vate end-users of climate data, meta-data, in-
19 formation, products, and services, including
20 State and local agencies including State natural
21 resource management agencies, universities,
22 public-private partnerships, and other non-
23 governmental organizations including land or
24 natural resource conservation organizations.
25 Non-Federal contributors shall be certified or

1 established by contract or agreement by the Cli-
2 mate Operations Office, and shall agree to meet
3 the eligibility requirements, contract certifi-
4 cation standards, and compliance procedures es-
5 tablished by the Interagency Coordinating Com-
6 mittee.

7 **SEC. 205. QUALITY ASSURANCE PROGRAM.**

8 (a) DEFINITION.—For purpose of this section, the
9 term “climate product and service” means any publicly or
10 commercially available product or service produced by a
11 non-Federal contributor that includes or displays climate
12 data, meta-data, or information.

13 (b) PROGRAM.—

14 (1) IN GENERAL.—The Climate Operations Of-
15 fice—

16 (A) by not later than 2 years after the
17 date of enactment of this Act, shall, subject to
18 the availability of appropriations, develop and
19 implement a quality assurance program that is
20 equally available to all applicants, under which
21 the Climate Operations Office may certify cli-
22 mate products and services that satisfy the
23 standards promulgated under section
24 204(b)(3)(A)(vii);

1 (B) may authorize the use of the emblem
2 or any trademark of the Enterprise on a cli-
3 mate product or service certified under sub-
4 paragraph (A); and

5 (C) may charge a fee for such certification
6 and use.

7 (2) LIMITATION ON FEE AMOUNT.—Any fee
8 under subsection (b)(1)(C) shall not exceed the costs
9 of conducting the quality assurance testing, evalua-
10 tion, or studies necessary to determine whether the
11 climate product or service satisfies the standard
12 adopted under section 204(b)(2)(A)(v).

13 (c) LIMITATION ON LIABILITY.—The Government of
14 the United States shall not be liable for any negligence
15 by a person that produces climate products or services cer-
16 tified under this section.

17 (d) CLIMATE PRODUCTS AND SERVICES ACCOUNT.—

18 (1) ESTABLISHMENT.—There is established in
19 the Treasury a separate account, which shall be
20 known as the “Climate Products And Services Ac-
21 count”.

22 (2) CONTENT.—The account shall consist of—

23 (A) amounts received by the United States
24 as fees charged under subsection (b)(1)(C); and

1 (B) such other amounts as may be pro-
2 vided by law.

3 (3) USE.—Amounts in the account shall be
4 available to the Climate Operations Office, subject to
5 the availability of appropriation, for the purposes of
6 Enterprise administration, research identified in the
7 research strategy under section 204(b)(3)(A)(i), the
8 grant program authorized under section
9 204(b)(4)(A)(vii), and natural resource adaptation.

10 **SEC. 206. ENTERPRISE ADVISORY BOARD.**

11 (a) FUNCTION.—The Enterprise Advisory Board
12 shall provide advice to the Interagency Coordinating Com-
13 mittee on policy implementation by the Climate Oper-
14 ations Office to fulfill the purposes of this title, the effec-
15 tiveness of data, meta-data, information, products, and
16 services delivered to public and private end-users; prior-
17 ities for climate research and information needs identified
18 by decisionmakers, including public and private end-users;
19 the performance of non-Federal contributors; the effective-
20 ness of incorporating non-Federal contributors into the
21 operations of the Enterprise; collaborations of non-Federal
22 contributors formed under the regional framework; and
23 critical climate research needs that are not currently being
24 addressed by the Enterprise.

25 (b) COMPOSITION.—

1 (1) IN GENERAL.—The Advisory Board shall
2 consist of 15 members appointed by the Interagency
3 Coordinating Committee who are representatives of
4 non-Federal contributors and public and private end-
5 users of Enterprise data, meta-data, information,
6 products, and services, including governmental and
7 nongovernmental natural resource managers.

8 (2) DIVERSITY.—The Advisory Board shall be
9 composed of members with diverse geographic rep-
10 resentation and from a diverse group of non-Federal
11 contributors, decisionmakers, and public and private
12 end-users.

13 (3) TERMS.—Members of the Advisory Board
14 shall be appointed for 3-year terms, and may be re-
15 appointed once.

16 (4) SPECIAL GOVERNMENT EMPLOYEES.—Mem-
17 bers of the Advisory Board shall be appointed as
18 special Government employees for purpose of the
19 sections referred to in section 202(a) of title 18,
20 United States Code.

21 (5) PAYMENT.—Members of the Advisory
22 Board shall not be compensated for service on that
23 Board, but may be allowed travel expenses, including
24 per diem in lieu of subsistence, in accordance with

1 subchapter I of chapter 57 of title 5, United States
2 Code.

3 (c) CHAIR.—The Advisory Board shall designate a
4 chair from among the members of the Board, who shall
5 be appointed for a 3-year term or the remainder of their
6 term as a member of the Advisory Board, whichever is
7 less.

8 (d) ADMINISTRATION.—

9 (1) MEETINGS.—The Advisory Board shall
10 meet at least once each year, and at other times at
11 the call of the Interagency Coordinating Committee
12 or the Advisory Board chair.

13 (2) REPORTING.—The Advisory Board shall re-
14 port to the Interagency Coordinating Committee on
15 policy implementation by the Climate Operations Of-
16 fice to fulfill the purposes of this title; the effective-
17 ness of Enterprise data, meta-data, information,
18 products, and services delivered to public and private
19 end-users; the responsiveness of the Enterprise to
20 identify and address the highest priorities for cli-
21 mate and climate impact research, information, and
22 emerging needs identified by public and private end-
23 users; the performance of non-Federal contributors;
24 the effectiveness of incorporating non-Federal con-
25 tributors into the operations of the Enterprise; col-

1 laborations of non-Federal contributors formed
2 under the regional framework; and critical climate
3 research needs that are not currently being ad-
4 dressed by the Enterprise.

5 (3) ADMINISTRATIVE SUPPORT.—The Climate
6 Operations Office shall provide administrative sup-
7 port to the Advisory Board.

8 (4) EXPIRATION.—Section 14 of the Federal
9 Advisory Committee Act (5 U.S.C. App.) shall not
10 apply to the Advisory Board.

11 **SEC. 207. REPORT TO THE CONGRESS.**

12 (a) REQUIREMENT.—Not later than 2 years after the
13 date of enactment of this Act and every 2 years thereafter,
14 the Climate Operations Office shall prepare and transmit
15 to the Congress a report on progress made in imple-
16 menting this title.

17 (b) CONTENTS.—The report shall include—

18 (1) a description of activities carried out under
19 this title, including Enterprise data, meta-data, in-
20 formation, products, and services delivered to Fed-
21 eral agencies and public and private end-users to im-
22 prove natural resource management and enhance
23 governmental and nongovernmental activities to
24 mitigate or adapt to factors attributed to climate
25 change;

1 (2) identification of Federal and non-Federal
2 contributors that have been integrated into the En-
3 terprise;

4 (3) an evaluation of the effectiveness of the En-
5 terprise, including progress on achieving the prior-
6 ities established by the Board, and the progress to-
7 ward standardized, comprehensive, and effective cli-
8 mate and climate impact data, meta-data, informa-
9 tion, products, and services available to Federal
10 agencies, non-Federal contributors and public and
11 private end-users;

12 (4) an evaluation of the effectiveness of non-
13 Federal contributors to deliver useful, timely, and ef-
14 fective climate and climate impact data, meta-data,
15 information, products, and services that address
16 public and private end-users' needs;

17 (5) recommendations concerning—

18 (A) modifications to the research strategy
19 under section 204(b)(3)(A)(i) to improve its ap-
20 plicability to public and private end-user needs;

21 (B) modifications to the Enterprise to im-
22 prove the effectiveness of Enterprise data,
23 meta-data, information, product, and services
24 delivery to Federal agencies, non-Federal con-
25 tributors, and public and private end-users;

1 (C) modifications to the Enterprise to fa-
2 cilitate interagency collaboration and Federal
3 effectiveness; and

4 (D) funding levels for the Enterprise in
5 subsequent fiscal years; and

6 (6) the results of a periodic external inde-
7 pendent programmatic audit of the Enterprise.

8 **SEC. 208. INTERAGENCY FINANCING AND AGREEMENTS.**

9 To carry out interagency activities under this title,
10 the Climate Operations Office may execute cooperative
11 agreements, or any other agreements, with, and receive
12 and expend funds made available by, any State or subdivi-
13 sion thereof, any Federal agency, or any public or private
14 organization, or individual. Agencies that are party to
15 agreements under this section are authorized to expend
16 such funds made available under this section in addition
17 to any funds which they may be otherwise authorized to
18 expend.

19 **SEC. 209. ENHANCING ADMINISTRATION AND MANAGE-**
20 **MENT.**

21 The head of each Federal agency shall support the
22 purposes of this title and may take appropriate actions
23 to enhance internal agency administration and manage-
24 ment to better support, integrate, finance, and utilize cli-

1 mate data, meta-data, information, products, and services
2 to further its own agency mission and responsibilities.

3 **SEC. 210. APPLICATION WITH OTHER FEDERAL LAWS.**

4 Nothing in this title supersedes or limits the author-
5 ity of any agency to carry out its responsibilities and mis-
6 sions under other laws.

7 **SEC. 211. APPLICATION WITH OTHER AGREEMENTS.**

8 Nothing in this title shall be construed to invalidate
9 existing certifications, contracts, or agreements between
10 non-Federal contributors and other elements of the Enter-
11 prise.

12 **SEC. 212. RELATIONSHIP TO OTHER AUTHORITIES.**

13 Nothing in this title affects authorities, responsibil-
14 ities, obligations, or powers of the Administrator under the
15 National Weather Service Organic Act.

16 **SEC. 213. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated to the Sec-
18 retary of Commerce for fiscal years 2010 through 2014
19 such sums as are necessary to fulfill the purposes of this
20 title.

21 **SEC. 214. DEFINITIONS.**

22 In this title:

23 (1) ADMINISTRATOR.—The term “Adminis-
24 trator” means the Under Secretary of Commerce for
25 Oceans and Atmosphere in the Under Secretary’s

1 capacity as Administrator of the National Oceanic
2 and Atmospheric Administration.

3 (2) ADVISORY BOARD.—The term “Advisory
4 Board” means the Enterprise Advisory Board as es-
5 tablished under section 206.

6 (3) BOARD.—The term “Board” means the
7 Interdepartmental Oversight Board as established
8 under section 204.

9 (4) ENTERPRISE.—The term “Enterprise”
10 means the National Climate Enterprise established
11 in section 204(a).

12 (5) NON-FEDERAL CONTRIBUTOR.—The term
13 “non-Federal contributor” means any purveyor, in-
14 cluding public entities, private for-profit and not-for-
15 profit entities, and private and public end-users, of
16 climate and climate impact data, meta-data, infor-
17 mation, products, or services that enters into con-
18 tract or agreement under section 204(b)(5) with the
19 Climate Operations Office and is not a Federal
20 agency.

21 (6) PUBLIC AND PRIVATE END-USER.—The
22 term “public and private enduser” means any per-
23 son, including any State, tribal, or local government,
24 that receives Enterprise data, meta-data, informa-
25 tion, products, and services.

1 (7) STATE.—The term “State” includes the
2 several States, the District of Columbia, American
3 Samoa, Guam, the Commonwealth of the Northern
4 Mariana Islands, Puerto Rico, and the Virgin Is-
5 lands.

○