

Union Calendar No. 341

110TH CONGRESS
2D SESSION

H. R. 2342

[Report No. 110-558, Part I]

To direct the President to establish a National Integrated Coastal and Ocean Observation System, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2007

Mr. ALLEN (for himself, Mr. GILCHREST, Mr. WAXMAN, Mr. YOUNG of Florida, Mrs. CAPPS, Mr. SAXTON, Mr. FARR, Mr. INSLEE, Mr. McDERMOTT, Mr. McINTYRE, Mr. MORAN of Virginia, and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Science and Technology, 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

MARCH 31, 2008

Additional sponsors: Mrs. DAVIS of California, Mr. HASTINGS of Florida, Mr. GRIJALVA, Ms. MATSUI, Ms. WOOLSEY, Ms. SOLIS, Mr. HONDA, Ms. HARMAN, Mr. McNERNEY, Mr. HOLT, and Ms. BORDALLO

MARCH 31, 2008

Reported from the Committee on Natural Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

MARCH 31, 2008

Committee on Science and Technology discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To direct the President to establish a National Integrated Coastal and Ocean Observation System, 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. ENHANCING CLIMATE CHANGE PREDICTIONS.**

4 *(a) SHORT TITLE.—This section may be cited as the*

5 *“National Integrated Coastal and Ocean Observation Act*

6 *of 2008”.*

7 *(b) PURPOSES.—The purposes of this section are the*

8 *following:*

9 *(1) Establish a National Integrated Coastal and*

10 *Ocean Observation System comprised of Federal and*

11 *non-Federal components, coordinated at the national*

12 *level by the National Ocean Research Leadership*

13 *Council and at the regional level by a network of Re-*

14 *gional Information Coordination Entities, that in-*

15 *cludes in situ, remote, and other coastal and ocean*

16 *observations, technologies, and data management and*

17 *communication systems, to gather specific coastal and*

18 *ocean data variables and to ensure the timely dis-*

1 *semination and availability of usable observation*
2 *data—*

3 *(A) to support national defense, marine*
4 *commerce, energy production, scientific research,*
5 *ecosystem-based marine and coastal resource*
6 *management, weather and marine forecasting,*
7 *public safety and public outreach training and*
8 *education; and*

9 *(B) to promote greater public awareness*
10 *and stewardship of the Nation's ocean, coastal,*
11 *and Great Lakes resources and the general public*
12 *welfare.*

13 *(2) Improve the Nation's capability to measure,*
14 *track, explain, and predict events related directly and*
15 *indirectly to weather and climate change, natural cli-*
16 *mate variability, and interactions between the oceanic*
17 *and atmospheric environments, including the Great*
18 *Lakes.*

19 *(3) Authorize activities to promote basic and ap-*
20 *plied research to develop, test, and deploy innovations*
21 *and improvements in coastal and ocean observation*
22 *technologies, modeling systems, and other scientific*
23 *and technological capabilities to improve our concep-*
24 *tual understanding of weather and climate, ocean at-*
25 *mosphere dynamics, global climate change, and phys-*

1 *ical, chemical, and biological dynamics of the ocean*
2 *and coastal and Great Lakes environments.*

3 *(c) DEFINITIONS.—In this section:*

4 *(1) COUNCIL.—The term “Council” means the*
5 *National Ocean Research Leadership Council referred*
6 *to in section 7902 of title 10, United States Code.*

7 *(2) ADMINISTRATOR.—The term “Adminis-*
8 *trator” means the Administrator of the National Oce-*
9 *anic and Atmospheric Administration.*

10 *(3) FEDERAL ASSETS.—The term “Federal as-*
11 *sets” means all relevant nonclassified civilian coastal*
12 *and ocean observations, technologies, and related mod-*
13 *eling, research, data management, basic and applied*
14 *technology research and development, and public edu-*
15 *cation and outreach programs, that are managed by*
16 *member agencies of the Council.*

17 *(4) INTERAGENCY WORKING GROUP.—The term*
18 *“Interagency Working Group” means the Interagency*
19 *Working Group on Ocean Observations as established*
20 *by the U.S. Ocean Policy Committee Subcommittee*
21 *on Ocean Science and Technology pursuant to Execu-*
22 *tive Order 13366 signed December 17, 2004.*

23 *(5) NON-FEDERAL ASSETS.—The term “non-Fed-*
24 *eral assets” means all relevant coastal and ocean ob-*
25 *servations, technologies, related basic and applied*

1 *technology research and development, and public edu-*
2 *cation and outreach programs that are integrated*
3 *into the System and are managed through States, re-*
4 *gional organizations, universities, nongovernmental*
5 *organizations, or the private sector.*

6 (6) *REGIONAL INFORMATION COORDINATION EN-*
7 *TITIES.—*

8 (A) *IN GENERAL.—The term “Regional In-*
9 *formation Coordination Entity”, subject to sub-*
10 *paragraphs (B) and (C), means an organiza-*
11 *tional body that is certified or established by the*
12 *lead Federal agency designated in subsection*
13 *(d)(3)(C)(iii) and coordinating State, Federal,*
14 *local, and private interests at a regional level*
15 *with the responsibility of engaging the private*
16 *and public sectors in designing, operating, and*
17 *improving regional coastal and ocean observing*
18 *systems in order to ensure the provision of data*
19 *and information that meet the needs of user*
20 *groups from the respective regions.*

21 (B) *INCLUDED ASSOCIATIONS.—Such term*
22 *includes Regional Associations as described by*
23 *the System Plan.*

24 (C) *LIMITATION.—Nothing in this section*
25 *shall be construed to invalidate existing certifi-*

1 *cations, contracts, or agreements between Re-*
2 *gional Associations and other elements of the*
3 *System.*

4 (7) *SYSTEM.*—*The term “System” means the Na-*
5 *tional Integrated Coastal and Ocean Observation Sys-*
6 *tem established under subsection (d).*

7 (8) *SYSTEM PLAN.*—*The term “System Plan”*
8 *means the plan contained in the document entitled*
9 *“Ocean.US Publication No. 9, The First Integrated*
10 *Ocean Observing System (IOOS) Development Plan”.*

11 (d) *NATIONAL INTEGRATED COASTAL AND OCEAN OB-*
12 *SERVING SYSTEM.*—

13 (1) *ESTABLISHMENT.*—*The President, acting*
14 *through the Council, shall establish a National Inte-*
15 *grated Coastal and Ocean Observation System to ful-*
16 *fill the purposes set forth in subsection (b) and the*
17 *System plan and to fulfill the Nation’s international*
18 *obligations to contribute to the global earth observa-*
19 *tion system of systems and the global ocean observing*
20 *system.*

21 (2) *SUPPORT OF PURPOSES.*—*The head of each*
22 *agency that is a member of the Interagency Working*
23 *Group shall support the purposes of this section.*

24 (3) *AVAILABILITY OF DATA.*—*The head of each*
25 *Federal agency that has administrative jurisdiction*

1 *over a Federal asset shall make available data that*
2 *are produced by that asset and that are not otherwise*
3 *restricted for integration, management, and dissemi-*
4 *nation by the System.*

5 (4) *ENHANCING ADMINISTRATION AND MANAGE-*
6 *MENT.—The head of each Federal agency that has ad-*
7 *ministrative jurisdiction over a Federal asset may*
8 *take appropriate actions to enhance internal agency*
9 *administration and management to better support,*
10 *integrate, finance, and utilize observation data, prod-*
11 *ucts, and services developed under this section to fur-*
12 *ther its own agency mission and responsibilities.*

13 (5) *PARTICIPATION IN REGIONAL INFORMATION*
14 *COORDINATION ENTITY.—The head of each Federal*
15 *agency that has administrative jurisdiction over a*
16 *Federal asset may participate in regional informa-*
17 *tion coordination entity activities.*

18 (6) *NON-FEDERAL ASSETS.—Non-Federal assets*
19 *shall be coordinated by the Interagency Working*
20 *Group or by Regional Information Coordination En-*
21 *tities.*

22 (e) *POLICY OVERSIGHT, ADMINISTRATION, AND RE-*
23 *GIONAL COORDINATION.—*

24 (1) *NATIONAL OCEAN RESEARCH LEADERSHIP*
25 *COUNCIL.—The National Ocean Research Leadership*

1 *Council shall be responsible for establishing broad co-*
2 *ordination and long-term operations plans, policies,*
3 *protocols, and standards for the System consistent*
4 *with the policies, goals, and objectives contained in*
5 *the System Plan, and coordination of the System*
6 *with other earth observing activities.*

7 (2) *INTERAGENCY WORKING GROUP.—The Inter-*
8 *agency Working Group shall, with respect to the Sys-*
9 *tem, be responsible for—*

10 (A) *implementation of operations plans and*
11 *policies developed by the Council;*

12 (B) *development of and transmittal to Con-*
13 *gress at the time of submission of the President’s*
14 *annual budget request an annual coordinated,*
15 *comprehensive System budget;*

16 (C) *identification of gaps in observation*
17 *coverage or needs for capital improvements of*
18 *both Federal assets and non-Federal assets;*

19 (D) *establishment of data management and*
20 *communication protocols and standards;*

21 (E) *establishment of required observation*
22 *data variables;*

23 (F) *development of certification standards*
24 *for all non-Federal assets or Regional Informa-*

1 *tion Coordination Entities to be eligible for inte-*
2 *gration into the System;*

3 *(G) subject to the availability of appropri-*
4 *ations, establish through one or more partici-*
5 *ating Federal agencies, in consultation with the*
6 *System Advisory Committee established under*
7 *paragraph (5), a competitive matching grant or*
8 *other program to promote research and develop-*
9 *ment of innovative observation technologies in-*
10 *cluding testing and field trials; and*

11 *(H) periodically review and recommend to*
12 *the Council revisions to the System Plan.*

13 *(3) LEAD FEDERAL AGENCY.—The Administrator*
14 *shall function as the lead Federal agency for the Sys-*
15 *tem. The Administrator may establish an Interagency*
16 *Program Coordinating Office to facilitate the Admin-*
17 *istrator’s responsibilities as the lead Federal agency*
18 *for System oversight and management. The Adminis-*
19 *trator shall—*

20 *(A) implement policies, protocols, and*
21 *standards established by the Council and dele-*
22 *gated by the Interagency Working Group;*

23 *(B) promulgate regulations to integrate the*
24 *participation of non-Federal assets into the Sys-*
25 *tem and enter into and oversee contracts and*

1 *agreements with Regional Information Coordina-*
2 *tion Entities to effect this purpose;*

3 (C) *implement a competitive funding proc-*
4 *ess for the purpose of assigning contracts and*
5 *agreements to Regional Information Coordina-*
6 *tion Entities;*

7 (D) *certify or establish Regional Informa-*
8 *tion Coordination Entities to coordinate State,*
9 *Federal, local, and private interests at a regional*
10 *level with the responsibility of engaging private*
11 *and public sectors in designing, operating, and*
12 *improving regional coastal and ocean observing*
13 *systems in order to ensure the provision of data*
14 *and information that meet the needs of user*
15 *groups from the respective regions;*

16 (E) *formulate a process by which gaps in*
17 *observation coverage or needs for capital im-*
18 *provements of Federal assets and non-Federal as-*
19 *sets of the System can be identified by the Re-*
20 *gional Information Coordination Entities, the*
21 *Administrator, or other members of the System*
22 *and transmitted to the Interagency Working*
23 *Group;*

24 (F) *be responsible for the coordination, stor-*
25 *age, management, and dissemination of observa-*

1 *tion data gathered through the System to all*
2 *end-user communities;*

3 *(G) implement a program of public edu-*
4 *cation and outreach to improve public awareness*
5 *of global climate change and effects on the ocean,*
6 *coastal, and Great Lakes environment; and*

7 *(H) report annually to the Council through*
8 *the Interagency Working Group on the accom-*
9 *plishments, operational needs, and performance*
10 *of the System to achieve the purposes of this title*
11 *and the System Plan.*

12 *(4) REGIONAL INFORMATION COORDINATION EN-*
13 *TITY.—To be certified or established under paragraph*
14 *(3)(D), a Regional Information Coordination Entity*
15 *must be certified or established by contract or agree-*
16 *ment by the Administrator, and must agree to—*

17 *(A) gather required System observation*
18 *data and other requirements specified under this*
19 *section and the System plan;*

20 *(B) identify gaps in observation coverage or*
21 *needs for capital improvements of Federal assets*
22 *and non-Federal assets of the System, and trans-*
23 *mit such information to the Interagency Working*
24 *Group via the Administrator;*

1 (C) demonstrate an organizational structure
2 and strategic operational plan to ensure the effi-
3 cient and effective administration of programs
4 and assets to support daily data observations for
5 integration into the System;

6 (D) comply with all financial oversight re-
7 quirements established by the Administrator, in-
8 cluding requirements relating to audits; and

9 (E) demonstrate a capability to work with
10 other governmental and nongovernmental entities
11 at all levels to identify and provide information
12 products of the System for multiple users within
13 the service area of the Regional Information Co-
14 ordination Entities and otherwise.

15 (5) SYSTEM ADVISORY COMMITTEE.—

16 (A) IN GENERAL.—The Administrator shall
17 establish a System Advisory Committee, which
18 shall provide advice as may be requested by the
19 Administrator or the Interagency Working
20 Group.

21 (B) PURPOSE.—The purpose of the System
22 Advisory Committee is to advise the Adminis-
23 trator and the Interagency Working Group on—

24 (i) administration, operation, manage-
25 ment, and maintenance of the System, in-

1 *cluding integration of Federal and non-Fed-*
2 *eral assets and data management and com-*
3 *munication aspects of the System, and ful-*
4 *fillment of the purposes specified under sub-*
5 *section (b);*

6 *(ii) expansion and periodic moderniza-*
7 *tion and upgrade of technology components*
8 *of the System;*

9 *(iii) identification of end-user commu-*
10 *nities, their needs for information provided*
11 *by the System, and the System's effective-*
12 *ness in disseminating information to end-*
13 *user communities and the general public;*
14 *and*

15 *(iv) any other purpose identified by*
16 *the Administrator or the Interagency Work-*
17 *ing Group.*

18 *(C) MEMBERS.—*

19 *(i) IN GENERAL.—The System Advi-*
20 *sory Committee shall be composed of mem-*
21 *bers appointed by the Administrator. Mem-*
22 *bers shall be qualified by education, train-*
23 *ing, and experience to evaluate scientific*
24 *and technical information related to the de-*
25 *sign, operation, maintenance, or use of the*

1 *System, or use of data products provided*
2 *through the System.*

3 (ii) *TERMS OF SERVICE.—Members*
4 *shall be appointed for 3-year terms, renew-*
5 *able once. A vacancy appointment shall be*
6 *for the remainder of the unexpired term of*
7 *the vacancy, and an individual so ap-*
8 *pointed may subsequently be appointed for*
9 *2 full 3-year terms if the remainder of the*
10 *unexpired term is less than one year.*

11 (iii) *CHAIRPERSON.—The Adminis-*
12 *trator shall designate a chairperson from*
13 *among the members of the System Advisory*
14 *Committee.*

15 (iv) *APPOINTMENT.—Members of the*
16 *System Advisory Committee shall be ap-*
17 *pointed as special Government employees*
18 *for purposes of section 202(a) of title 18,*
19 *United States Code.*

20 (D) *ADMINISTRATIVE PROVISIONS.—*

21 (i) *REPORTING.—The System Advisory*
22 *Committee shall report to the Administrator*
23 *and the Interagency Working Group, as ap-*
24 *propriate.*

1 (ii) *ADMINISTRATIVE SUPPORT.*—*The*
2 *Administrator shall provide administrative*
3 *support to the System Advisory Committee.*

4 (iii) *MEETINGS.*—*The System Advi-*
5 *sory Committee shall meet at least once each*
6 *year, and at other times at the call of the*
7 *Administrator, the Interagency Working*
8 *Group, or the chairperson.*

9 (iv) *COMPENSATION AND EXPENSES.*—
10 *Members of the System Advisory Committee*
11 *shall not be compensated for service on that*
12 *Committee, but may be allowed travel ex-*
13 *penditures, including per diem in lieu of sub-*
14 *sistence, in accordance with subchapter I of*
15 *chapter 57 of title 5, United States Code.*

16 (v) *EXPIRATION.*—*Section 14 of the*
17 *Federal Advisory Committee Act (5 U.S.C.*
18 *App.) shall not apply to the System Advi-*
19 *sory Committee.*

20 (6) *CIVIL LIABILITY.*—*For purposes of deter-*
21 *mining liability arising from the dissemination and*
22 *use of observation data gathered pursuant to this sec-*
23 *tion, any non-Federal asset or Regional Information*
24 *Coordination Entity that is certified under para-*
25 *graph (3)(D) and that is participating in the System*

1 *shall be considered to be part of the National Oceanic*
2 *and Atmospheric Administration. Any employee of*
3 *such a non-Federal asset or Regional Information Co-*
4 *ordination Entity, while operating within the scope*
5 *of his or her employment in carrying out the purposes*
6 *of this section, with respect to tort liability, is deemed*
7 *to be an employee of the Federal Government.*

8 *(f) INTERAGENCY FINANCING, GRANTS, CONTRACTS,*
9 *AND AGREEMENTS.—*

10 *(1) IN GENERAL.—The member departments and*
11 *agencies of the Council, subject to the availability of*
12 *appropriations, may participate in interagency fi-*
13 *nancing and share, transfer, receive, obligate, and ex-*
14 *pend funds appropriated to any member agency for*
15 *the purposes of carrying out any administrative or*
16 *programmatic project or activity to further the pur-*
17 *poses of this section, including support for the Inter-*
18 *agency Working Group, the Interagency Coordinating*
19 *Program Office, a common infrastructure, and inte-*
20 *gration to expand or otherwise enhance the System.*

21 *(2) JOINT CENTERS AND AGREEMENTS.—Member*
22 *Departments and agencies of the Council shall have*
23 *the authority to create, support, and maintain joint*
24 *centers, and to enter into and perform such contracts,*
25 *leases, grants, and cooperative agreements as may be*

1 *necessary to carry out the purposes of this section and*
2 *fulfillment of the System Plan.*

3 *(g) APPLICATION WITH OTHER LAWS.—Nothing in*
4 *this section supersedes or limits the authority of any agency*
5 *to carry out its responsibilities and missions under other*
6 *laws.*

7 *(h) REPORT TO CONGRESS.—*

8 *(1) IN GENERAL.—Not later than two years after*
9 *the date of enactment of this section, the Adminis-*
10 *trator through the Council shall submit to Congress a*
11 *report that describes the status of the System and*
12 *progress made to achieve the purposes of this section*
13 *and the goals identified under the System Plan.*

14 *(2) CONTENTS.—The report shall include discus-*
15 *sion of the following:*

16 *(A) Identification of Federal and non-Fed-*
17 *eral assets as determined by the Council that*
18 *have been integrated into the System, including*
19 *assets essential to the gathering of required obser-*
20 *vation data variables necessary to meet the re-*
21 *spective missions of Council agencies.*

22 *(B) A review of procurements, planned or*
23 *initiated, by each Council agency to enhance, ex-*
24 *pand, or modernize the observation capabilities*
25 *and data products provided by the System, in-*

1 *cluding data management and communication*
2 *subsystems.*

3 *(C) An assessment regarding activities to*
4 *integrate Federal and non-Federal assets, nation-*
5 *ally and on the regional level, and discussion of*
6 *the performance and effectiveness of Regional In-*
7 *formation Coordination Entities to coordinate*
8 *regional observation operations.*

9 *(D) An evaluation of progress made by the*
10 *Council to achieve the purposes of this section*
11 *and the goals identified under the System Plan.*

12 *(E) Recommendations for operational im-*
13 *provements to enhance the efficiency, accuracy,*
14 *and overall capability of the System.*

15 *(3) BIENNIAL UPDATE.—Two years after the*
16 *transmittal of the initial report prepared pursuant to*
17 *this subsection and biennially thereafter, the Adminis-*
18 *trator, through the Council, shall submit to Congress*
19 *an update of the initial report.*

20 *(i) PUBLIC-PRIVATE USE POLICY.—The Council shall*
21 *develop a policy within 6 months after the date of the enact-*
22 *ment of this section that defines processes for making deci-*
23 *sions about the roles of the Federal Government, the States,*
24 *Regional Information Coordination Entities, the academic*
25 *community, and the private sector in providing to end-user*

1 *communities environmental information, products, tech-*
2 *nologies, and services related to the System. The Council*
3 *shall publish the policy in the Federal Register for public*
4 *comment for a period not less than 60 days. Nothing in*
5 *this subsection shall be construed to require changes in pol-*
6 *icy in effect on the date of the enactment of this Act.*

7 (j) *INDEPENDENT COST ESTIMATE.—The Interagency*
8 *Working Group, through the Administrator and the Direc-*
9 *tor of the National Science Foundation, shall obtain within*
10 *one year after the date of the enactment of this section an*
11 *independent cost estimate for operations and maintenance*
12 *of existing Federal assets of the System, and planned or*
13 *anticipated acquisition, operation, and maintenance of new*
14 *Federal assets for the System, including operation facilities,*
15 *observation equipment, modeling and software, data man-*
16 *agement and communication, and other essential compo-*
17 *nents. The independent cost estimate shall be transmitted*
18 *unabridged and without revision by the Administrator to*
19 *Congress.*

20 (k) *INTENT OF CONGRESS.—It is the intent of Congress*
21 *that funding provided to agencies of the Council to imple-*
22 *ment this section shall supplement, and not replace, existing*
23 *sources of funding for other programs. It is the further in-*
24 *tent of Congress that agencies of the Council shall not enter*
25 *into contracts or agreements for the development or procure-*

1 *ment of new Federal assets for the System that are esti-*
2 *mated to be in excess of \$250,000,000 in life-cycle costs*
3 *without first providing adequate notice to Congress and op-*
4 *portunity for review and comment.*

Union Calendar No. 341

110TH CONGRESS
2^D SESSION

H. R. 2342

[Report No. 110-558, Part I]

A BILL

To direct the President to establish a National Integrated Coastal and Ocean Observation System, and for other purposes.

MARCH 31, 2008

Committee on Science and Technology discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed