

§ 3608. Repealed. Pub. L. 116–271, title I, § 107(a), Dec. 31, 2020, 134 Stat. 3341

Section, Pub. L. 111–11, title XII, § 12309, Mar. 30, 2009, 123 Stat. 1436, related to independent cost estimates to be sent to Congress within 1 year after Mar. 30, 2009.

§ 3609. Intent of Congress

It is the intent of Congress that funding provided to agencies of the Council to implement this chapter shall supplement, and not replace, existing sources of funding for other programs. It is the further intent of Congress that agencies of the Council shall not enter into contracts or agreements for the development or procurement of new Federal assets for the System that are estimated to be in excess of \$250,000,000 in life-cycle costs without first providing adequate notice to Congress and opportunity for review and comment.

(Pub. L. 111–11, title XII, § 12310, Mar. 30, 2009, 123 Stat. 1436.)

§ 3610. Authorization of appropriations

There are authorized to be appropriated to the Secretary of Commerce to support the integrated oceans observations under this chapter—

- (1) \$48,000,000 for fiscal year 2021;
- (2) \$50,000,000 for fiscal year 2022;
- (3) \$52,000,000 for fiscal year 2023;
- (4) \$54,000,000 for fiscal year 2024; and
- (5) \$56,000,000 for fiscal year 2025.

(Pub. L. 111–11, title XII, § 12311, Mar. 30, 2009, 123 Stat. 1436; Pub. L. 116–271, title I, § 108, Dec. 31, 2020, 134 Stat. 3341.)

Editorial Notes

AMENDMENTS

2020—Pub. L. 116–271 amended section generally. Prior to amendment, section related to authorization of appropriations for fiscal years 2009 to 2013.

§ 3611. Assessing and modeling named storms over coastal States

(a) Definitions

In this section:

(1) COASTAL Formula

The term “COASTAL Formula” has the meaning given the term in section 4057(a) of title 42.

(2) Coastal State

The term “coastal State” has the meaning given the term “coastal state” in section 1453 of title 16, except that the term shall not apply with respect to a State or territory that has an operational wind and flood loss allocation system.

(3) Coastal waters

The term “coastal waters” has the meaning given the term in such section.

(4) Covered data

The term “covered data” means, with respect to a named storm identified by the Administrator under subsection (b)(2)(A), empirical data that are—

- (A) collected before, during, or after such storm; and

(B) necessary to determine magnitude and timing of wind speeds, rainfall, the barometric pressure, river flows, the extent, height, and timing of storm surge, topographic and bathymetric data, and other measures required to accurately model and assess damage from such storm.

(5) Indeterminate loss

The term “indeterminate loss” has the meaning given the term in section 4057(a) of title 42.

(6) Named storm

The term “named storm” means any organized weather system with a defined surface circulation and maximum sustained winds of at least 39 miles per hour which the National Hurricane Center of the United States National Weather Service names as a tropical storm or a hurricane.

(7) Named Storm Event Model

The term “Named Storm Event Model” means the official meteorological and oceanographic computerized model, developed by the Administrator under subsection (b)(1)(A), which utilizes covered data to replicate the magnitude, timing, and spatial variations of winds, rainfall, and storm surges associated with named storms for which post-storm assessments are conducted.

(8) Participant

The term “participant” means a Federal, State, or private entity that chooses to cooperate with the Administrator in carrying out the provisions of this section by collecting, contributing, and maintaining covered data.

(9) Post-storm assessment

The term “post-storm assessment” means a scientific assessment produced and certified by the Administrator to determine the magnitude, timing, and spatial variations of winds, rainfall, and storm surges associated with a specific named storm to be used in the COASTAL Formula.

(10) State

The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(b) Named Storm Event Model and post-storm assessment

(1) Establishment of Named Storm Event Model

(A) In general

Not later than December 31, 2020, the Administrator shall develop the Named Storm Event Model.

(B) Accuracy

The Named Storm Event Model shall be designed to generate post-storm assessments, as provided in paragraph (2), that have a degree of accuracy of not less than 90 percent for an indeterminate loss for which a post-storm assessment is utilized.

(C) Public review

The Administrator shall seek input and suggestions from the public before the

Named Storm Event Model, or any modification to the Named Storm Event Model, takes effect.

(2) Post-storm assessment

(A) Identification of named storms threatening coastal States

After the establishment of the COASTAL Formula, the Administrator shall, in consultation with the Secretary of Homeland Security, identify named storms that may reasonably constitute a threat to any portion of a coastal State.

(B) Data collection

(i) In general

Upon identification of a named storm under subparagraph (A), and pursuant to the protocol established under subsection (c), the Administrator may deploy sensors to enhance the collection of covered data in the areas in coastal States that the Administrator determines are at the highest risk of experiencing geophysical events that would cause indeterminate losses.

(ii) Rule of construction

If the Administrator takes action under clause (i), that action may not be construed as indicating that a post-storm assessment will be developed for any coastal State in which that action is taken.

(C) Identification of indeterminate losses in coastal States

Not later than 30 days after the first date on which sustained winds of not less than 39 miles per hour are measured in a coastal State during a named storm identified under subparagraph (A), the Secretary of Homeland Security shall notify the Administrator with respect to the existence of any indeterminate losses in that coastal State resulting from that named storm.

(D) Post-storm assessment required

Upon confirmation of indeterminate losses identified under subparagraph (C) with respect to a named storm, the Administrator shall develop a post-storm assessment for each coastal State that suffered such indeterminate losses as a result of the named storm using the Named Storm Event Model and covered data collected for such named storm pursuant to the protocol established under subsection (c)(1).

(E) Submittal of post-storm assessment

Not later than 90 days after any indeterminate losses are identified under subparagraph (C), the Administrator shall submit to the Secretary of Homeland Security the post-storm assessment developed under subparagraph (D) for any coastal State that suffered such indeterminate losses.

(F) Separate post-storm assessments for a single named storm

(i) In general

The Administrator may conduct a separate post-storm assessment for each coastal State in which indeterminate losses are identified under subparagraph (C).

(ii) Timeline

If the Administrator conducts a separate post-storm assessment under clause (i), the Administrator shall complete the assessment based on the dates of actions that the Administrator takes under subparagraph (D).

(3) Accuracy

The Administrator shall ensure, to the greatest extent practicable, that each post-storm assessment developed under paragraph (2) has a degree of accuracy of not less than 90 percent.

(4) Certification

For each post-storm assessment carried out under paragraph (2), the Administrator shall—

(A) certify the degree of accuracy for such assessment, including specific reference to any segments or geographic areas for which the assessment is less than 90 percent accurate; and

(B) report such certification to the Secretary of Homeland Security for the purposes of use with indeterminate loss claims under section 4057 of title 42.

(5) Finality of determinations

A certification of the degree of accuracy of a post-storm assessment under this subsection by the Administrator shall be final and shall not be subject to judicial review.

(6) Availability

The Administrator shall make available to the public the Named Storm Event Model and any post-storm assessment developed under this subsection.

(c) Establishment of a protocol for post-storm assessment

(1) In general

Not later than December 31, 2020, the Administrator shall establish a protocol, based on the plan submitted under subsection (d)(3), to collect and assemble all covered data required by the Administrator to produce post-storm assessments required by subsection (b), including assembling data collected by participants and stored in the database established under subsection (f) and from such other sources as the Administrator considers appropriate.

(2) Acquisition of sensors and structures

If the Administrator is unable to use a public or private asset to obtain covered data as part of the protocol established under paragraph (1), the Administrator may acquire such sensors and structures for the placement of sensors as may, in the discretion of the Administrator, be necessary to obtain such data.

(3) Use of Federal assets

If the protocol requires placement of a sensor to develop assessments pursuant to subsection (b), the Administrator shall, to the extent practicable, use Federal assets for the placement of such sensors.

(4) Use of acquired structures

(A) In general

If the Administrator acquires a structure for the placement of a sensor for purposes of

such protocol, the Administrator shall to the extent practical permit other public and private entities to place sensors on such structure to collect—

- (i) meteorological data;
- (ii) national security-related data;
- (iii) navigation-related data;
- (iv) hydrographic data; or
- (v) such other data as the Administrator considers appropriate.

(B) Receipt of consideration

The Administrator may receive and expend consideration for the placement of a sensor on a structure under subparagraph (A).

(C) In-kind consideration

Consideration received under subparagraph (B) may be received in-kind.

(D) Use of consideration

To the extent practicable, consideration received under subparagraph (B) shall be used for the maintenance of sensors used to collect covered data.

(5) Coordinated deployments and data collection practices

The Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology, coordinate the deployment of sensors as part of the protocol established under paragraph (1) and related data collection carried out by Federal, State, academic, and private entities who choose to cooperate with the Administrator in carrying out this subsection.

(6) Priority acquisition and deployment

The Administrator shall give priority in the acquisition for and deployment of sensors under the protocol required by paragraph (1) to areas of coastal States that have the highest risk of being harmed by named storms.

(d) Assessment of systems and efforts to collect covered data

(1) Identification of systems and efforts to collect covered data

Not later than 180 days after July 6, 2012, the Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology—

- (A) carry out a survey to identify all Federal and State efforts and systems that are capable of collecting covered data; and
- (B) consult with private and academic sector entities to identify domestic private and academic systems that are capable of collecting covered data.

(2) Identification of gaps

The Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology and individuals and entities consulted under subsection (e)(3), assess the systems identified under paragraph (1) and identify which systems meet the needs of the National Oceanic and Atmospheric Administration for the collection of covered data, including with respect to the accuracy requirement for post-storm assessment under subsection (b)(3).

(3) Plan

Not later than 270 days after July 6, 2012, the Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology, submit to Congress a plan for the collection of covered data necessary to develop the Named Storm Event Model and post-storm assessment required by subsection (b) that addresses any gaps identified in paragraph (2).

(e) Coordination of covered data collection and maintenance by participants

(1) In general

The Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology, coordinate the collection and maintenance of covered data by participants under this section—

- (A) to streamline the process of collecting covered data in accordance with the protocol established under subsection (c)(1); and
- (B) to maintain transparency of such process and the database established under subsection (f).

(2) Sharing information

The Administrator shall establish a process for sharing among participants information relevant to collecting and using covered data for—

- (A) academic research;
- (B) private sector use;
- (C) public outreach; and
- (D) such other purposes as the Administrator considers appropriate.

(3) Consultation

In carrying out paragraphs (1) and (2), the Administrator shall consult with the following:

- (A) The Commanding General of the Corps of Engineers.
- (B) The Administrator of the Federal Emergency Management Agency.
- (C) The Commandant of the Coast Guard.
- (D) The Director of the United States Geological Survey.
- (E) The Office of the Federal Coordinator for Meteorology.
- (F) The Director of the National Science Foundation.

(G) The Administrator of the National Aeronautics and Space Administration.

(H) Such public, private, and academic sector entities as the Administrator considers appropriate for purposes of carrying out the provisions of this section.

(f) Establishment of Coastal Wind and Water Event Database

(1) In general

Not later than 1 year after July 6, 2012, the Administrator shall establish a database for the collection and compilation of covered data—

- (A) to support the protocol established under subsection (c)(1); and
- (B) for the purposes listed in subsection (e)(2).

(2) Designation

The database established under paragraph (1) shall be known as the “Coastal Wind and Water Event Database”.

(g) Comptroller General study

Not later than 1 year after July 6, 2012, the Comptroller General of the United States shall—

(1) complete an audit of Federal efforts to collect covered data for purposes of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, which audit shall—

(A) examine duplicated Federal efforts to collect covered data; and
(B) determine the cost effectiveness of such efforts; and

(2) submit to the Committee on Banking, Housing, and Urban Affairs and the¹ Commerce, Science, and Transportation of the Senate and the Committee on Financial Services and the Committee on Science, Space, and Technology of the House of Representatives a report on the findings of the Comptroller General with respect to the audit completed under paragraph (1).

(Pub. L. 111–11, title XII, §12312, as added Pub. L. 112–141, div. F, title II, §100252, July 6, 2012, 126 Stat. 969; amended Pub. L. 116–271, title II, §201(a), Dec. 31, 2020, 134 Stat. 3344.)

Editorial Notes

REFERENCES IN TEXT

The Consumer Option for an Alternative System to Allocate Losses Act of 2012, referred to in subsec. (g)(1), is subtitle B (§§100251–100253) of title II of div. F of Pub. L. 112–141, which enacted this section, section 4057 of Title 42, the Public Health and Welfare, and provisions set out as a note under section 4001 of Title 42. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 4001 of Title 42 and Tables.

AMENDMENTS

2020—Subsec. (a)(2). Pub. L. 116–271, §201(a)(1)(A), inserted “, except that the term shall not apply with respect to a State or territory that has an operational wind and flood loss allocation system” before period at end.

Subsec. (a)(6). Pub. L. 116–271, §201(a)(1)(B), inserted “sustained” before “winds”.

Subsec. (a)(7). Pub. L. 116–271, §201(a)(1)(C), substituted “for which post-storm assessments are conducted” for “that threaten any portion of a coastal State”.

Subsec. (b)(1)(A). Pub. L. 116–271, §201(a)(2)(A)(i), substituted “December 31, 2020” for “540 days after July 6, 2012” and struck out “by regulation” after “Administrator shall develop”.

Subsec. (b)(1)(B). Pub. L. 116–271, §201(a)(2)(A)(ii), substituted “an indeterminate loss” for “every indeterminate loss”.

Subsec. (b)(1)(C). Pub. L. 116–271, §201(a)(2)(A)(iii), added subpar. (C).

Subsec. (b)(2)(B), (C). Pub. L. 116–271, §201(a)(2)(B)(ii), added subpars. (B) and (C). Former subpars. (B) and (C) redesignated (D) and (E), respectively.

Subsec. (b)(2)(D). Pub. L. 116–271, §201(a)(2)(B)(iii), substituted “confirmation of indeterminate losses identified under subparagraph (C) with respect to a named storm” for “identification of a named storm under subparagraph (A)” and “assessment for each coastal State that suffered such indeterminate losses as a result of the named storm” for “assessment for such named storm”.

Pub. L. 116–271, §201(a)(2)(B)(i), redesignated subpar. (B) as (D).

Subsec. (b)(2)(E). Pub. L. 116–271, §201(a)(2)(B)(iv), substituted “any indeterminate losses are identified under subparagraph (C)” for “an identification of a named storm is made under subparagraph (A)” and “under subparagraph (D) for any coastal State that suffered such indeterminate losses” for “for such storm under subparagraph (B)”.

Pub. L. 116–271, §201(a)(2)(B)(i), redesignated subpar. (C) as (E).

Subsec. (b)(2)(F). Pub. L. 116–271, §201(a)(2)(B)(v), added subpar. (F).

Subsec. (c)(1). Pub. L. 116–271, §201(a)(3)(A), substituted “December 31, 2020” for “540 days after July 6, 2012”.

Subsec. (c)(2). Pub. L. 116–271, §201(a)(3)(B), inserted “, in the discretion of the Administrator,” after “of sensors as may”.

Subsec. (c)(4)(B). Pub. L. 116–271, §201(a)(3)(C), inserted “and expend” after “receive”.

CHAPTER 50—FEDERAL OCEAN ACIDIFICATION RESEARCH AND MONITORING

Sec.

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3708.	Authorization of appropriations.

§ 3701. Purposes**(a) Purposes**

The purposes of this chapter are to provide for—

(1) development and coordination of a comprehensive interagency plan to—

(A) monitor and conduct research on the processes and consequences of ocean acidification on marine organisms and ecosystems; and

(B) establish an interagency research and monitoring program on ocean acidification;

(2) establishment of an ocean acidification program within the National Oceanic and Atmospheric Administration;

(3) assessment and consideration of regional and national ecosystem and socioeconomic impacts of increased ocean acidification; and

(4) research adaptation strategies and techniques for effectively conserving marine ecosystems as they cope with increased ocean acidification.

(Pub. L. 111–11, title XII, §12402, Mar. 30, 2009, 123 Stat. 1436.)

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 111–11, title XII, §12401, Mar. 30, 2009, 123 Stat. 1436, provided that: “This subtitle [subtitle D (§§12401–12409) of title XII of Pub. L. 111–11, enacting this chapter] may be cited as the ‘Federal Ocean Acidification Research And Monitoring Act of 2009’ or the ‘FOARAM Act’.”

§ 3702. Definitions

In this chapter:

(1) Ocean acidification

The term “ocean acidification” means the decrease in pH of the Earth’s oceans and

¹So in original. Probably should be followed by “Committee on”.