

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2342
OFFERED BY MS. BORDALLO OF GUAM

Strike all after the enacting clause and insert the following:

1 **SECTION 1. ENHANCING CLIMATE CHANGE PREDICTIONS.**

2 (a) **SHORT TITLE.**—This section may be cited as the
3 “National Integrated Coastal and Ocean Observation Act
4 of 2008”.

5 (b) **PURPOSES.**—The purposes of this section are the
6 following:

7 (1) Establish a National Integrated Coastal and
8 Ocean Observation System comprised of Federal and
9 non-Federal components, coordinated at the national
10 level by the National Ocean Research Leadership
11 Council and at the regional level by a network of Re-
12 gional Information Coordination Entities, that in-
13 cludes in situ, remote, and other coastal and ocean
14 observations, technologies, and data management
15 and communication systems, to gather specific coast-
16 al and ocean data variables and to ensure the timely
17 dissemination and availability of usable observation
18 data—

1 (A) to support national defense, marine
2 commerce, energy production, scientific re-
3 search, ecosystem-based marine and coastal re-
4 source management, weather and marine fore-
5 casting, public safety and public outreach train-
6 ing and education; and

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

11 (2) Improve the Nation's capability to measure,
12 track, explain, and predict events related directly
13 and indirectly to weather and climate change, nat-
14 ural climate variability, and interactions between the
15 oceanic and atmospheric environments, including the
16 Great Lakes.

17 (3) Authorize activities to promote basic and
18 applied research to develop, test, and deploy innova-
19 tions and improvements in coastal and ocean obser-
20 vation technologies, modeling systems, and other sci-
21 entific and technological capabilities to improve our
22 conceptual understanding of weather and climate,
23 ocean atmosphere dynamics, global climate change,
24 and physical, chemical, and biological dynamics of

1 the ocean and coastal and Great Lakes environ-
2 ments.

3 (c) DEFINITIONS.—In this section:

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

8 (2) ADMINISTRATOR.—The term “Adminis-
9 trator” means the Administrator of the National
10 Oceanic and Atmospheric Administration.

11 (3) FEDERAL ASSETS.—The term “Federal as-
12 sets” means all relevant nonclassified civilian coastal
13 and ocean observations, technologies, and related
14 modeling, research, data management, basic and ap-
15 plied technology research and development, and pub-
16 lic education and outreach programs, that are man-
17 aged by member agencies of the Council.

18 (4) INTERAGENCY WORKING GROUP.—The term
19 “Interagency Working Group” means the Inter-
20 agency Working Group on Ocean Observations as es-
21 tablished by the U.S. Ocean Policy Committee Sub-
22 committee on Ocean Science and Technology pursu-
23 ant to Executive Order 13366 signed December 17,
24 2004.

1 (5) NON-FEDERAL ASSETS.—The term “non-
2 Federal assets” means all relevant coastal and ocean
3 observations, technologies, related basic and applied
4 technology research and development, and public
5 education and outreach programs that are integrated
6 into the System and are managed through States,
7 regional organizations, universities, nongovernmental
8 organizations, or the private sector.

9 (6) REGIONAL INFORMATION COORDINATION
10 ENTITIES.—

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

1 (B) INCLUDED ASSOCIATIONS.—Such term
2 includes Regional Associations as described by
3 the System Plan.

4 (C) LIMITATION.—Nothing in this section
5 shall be construed to invalidate existing certifi-
6 cations, contracts, or agreements between Re-
7 gional Associations and other elements of the
8 System.

9 (7) SYSTEM.—The term “System” means the
10 National Integrated Coastal and Ocean Observation
11 System established under subsection (d).

12 (8) SYSTEM PLAN.—The term “System Plan”
13 means the plan contained in the document entitled
14 “Ocean.US Publication No. 9, The First Integrated
15 Ocean Observing System (IOOS) Development
16 Plan”.

17 (d) NATIONAL INTEGRATED COASTAL AND OCEAN
18 OBSERVING SYSTEM.—

19 (1) ESTABLISHMENT.—The President, acting
20 through the Council, shall establish a National Inte-
21 grated Coastal and Ocean Observation System to
22 fulfill the purposes set forth in subsection (b) and
23 the System plan and to fulfill the Nation’s inter-
24 national obligations to contribute to the global earth

1 observation system of systems and the global ocean
2 observing system.

3 (2) SUPPORT OF PURPOSES.—The head of each
4 agency that is a member of the Interagency Working
5 Group shall support the purposes of this section.

6 (3) AVAILABILITY OF DATA.—The head of each
7 Federal agency that has administrative jurisdiction
8 over a Federal asset shall make available data that
9 are produced by that asset and that are not other-
10 wise restricted for integration, management, and dis-
11 semination by the System.

12 (4) ENHANCING ADMINISTRATION AND MAN-
13 AGEMENT.—The head of each Federal agency that
14 has administrative jurisdiction over a Federal asset
15 may take appropriate actions to enhance internal
16 agency administration and management to better
17 support, integrate, finance, and utilize observation
18 data, products, and services developed under this
19 section to further its own agency mission and re-
20 sponsibilities.

21 (5) PARTICIPATION IN REGIONAL INFORMATION
22 COORDINATION ENTITY.—The head of each Federal
23 agency that has administrative jurisdiction over a
24 Federal asset may participate in regional informa-
25 tion coordination entity activities.

1 (6) NON-FEDERAL ASSETS.—Non-Federal as-
2 sets shall be coordinated by the Interagency Work-
3 ing Group or by Regional Information Coordination
4 Entities.

5 (e) POLICY OVERSIGHT, ADMINISTRATION, AND RE-
6 GIONAL COORDINATION.—

7 (1) NATIONAL OCEAN RESEARCH LEADERSHIP
8 COUNCIL.—The National Ocean Research Leader-
9 ship Council shall be responsible for establishing
10 broad coordination and long-term operations plans,
11 policies, protocols, and standards for the System
12 consistent with the policies, goals, and objectives
13 contained in the System Plan, and coordination of
14 the System with other earth observing activities.

15 (2) INTERAGENCY WORKING GROUP.—The
16 Interagency Working Group shall, with respect to
17 the System, be responsible for—

18 (A) implementation of operations plans
19 and policies developed by the Council;

20 (B) development of and transmittal to
21 Congress at the time of submission of the
22 President's annual budget request an annual
23 coordinated, comprehensive System budget;

1 (C) identification of gaps in observation
2 coverage or needs for capital improvements of
3 both Federal assets and non-Federal assets;

4 (D) establishment of data management
5 and communication protocols and standards;

6 (E) establishment of required observation
7 data variables;

8 (F) development of certification standards
9 for all non-Federal assets or Regional Informa-
10 tion Coordination Entities to be eligible for in-
11 tegration into the System;

12 (G) subject to the availability of appropria-
13 tions, establish through one or more partici-
14 pating Federal agencies, in consultation with
15 the System Advisory Committee established
16 under paragraph (5), a competitive matching
17 grant or other program to promote research
18 and development of innovative observation tech-
19 nologies including testing and field trials; and

20 (H) periodically review and recommend to
21 the Council revisions to the System Plan.

22 (3) LEAD FEDERAL AGENCY.—The Adminis-
23 trator shall function as the lead Federal agency for
24 the System. The Administrator may establish an
25 Interagency Program Coordinating Office to facili-

1 tate the Administrator's responsibilities as the lead
2 Federal agency for System oversight and manage-
3 ment. The Administrator shall—

4 (A) implement policies, protocols, and
5 standards established by the Council and dele-
6 gated by the Interagency Working Group;

7 (B) promulgate regulations to integrate
8 the participation of non-Federal assets into the
9 System and enter into and oversee contracts
10 and agreements with Regional Information Co-
11 ordination Entities to effect this purpose;

12 (C) implement a competitive funding proc-
13 ess for the purpose of assigning contracts and
14 agreements to Regional Information Coordina-
15 tion Entities;

16 (D) certify or establish Regional Informa-
17 tion Coordination Entities to coordinate State,
18 Federal, local, and private interests at a re-
19 gional level with the responsibility of engaging
20 private and public sectors in designing, oper-
21 ating, and improving regional coastal and ocean
22 observing systems in order to ensure the provi-
23 sion of data and information that meet the
24 needs of user groups from the respective re-
25 gions;

1 (E) formulate a process by which gaps in
2 observation coverage or needs for capital im-
3 provements of Federal assets and non-Federal
4 assets of the System can be identified by the
5 Regional Information Coordination Entities, the
6 Administrator, or other members of the System
7 and transmitted to the Interagency Working
8 Group;

9 (F) be responsible for the coordination,
10 storage, management, and dissemination of ob-
11 servation data gathered through the System to
12 all end-user communities;

13 (G) implement a program of public edu-
14 cation and outreach to improve public aware-
15 ness of global climate change and effects on the
16 ocean, coastal, and Great Lakes environment;
17 and

18 (H) report annually to the Council through
19 the Interagency Working Group on the accom-
20 plishments, operational needs, and performance
21 of the System to achieve the purposes of this
22 title and the System Plan.

23 (4) REGIONAL INFORMATION COORDINATION
24 ENTITY.—To be certified or established under para-
25 graph (3)(D), a Regional Information Coordination

1 Entity must be certified or established by contract
2 or agreement by the Administrator, and must agree
3 to—

4 (A) gather required System observation
5 data and other requirements specified under
6 this section and the System plan;

7 (B) identify gaps in observation coverage
8 or needs for capital improvements of Federal
9 assets and non-Federal assets of the System,
10 and transmit such information to the Inter-
11 agency Working Group via the Administrator;

12 (C) demonstrate an organizational struc-
13 ture and strategic operational plan to ensure
14 the efficient and effective administration of pro-
15 grams and assets to support daily data observa-
16 tions for integration into the System;

17 (D) comply with all financial oversight re-
18 quirements established by the Administrator,
19 including requirements relating to audits; and

20 (E) demonstrate a capability to work with
21 other governmental and nongovernmental enti-
22 ties at all levels to identify and provide informa-
23 tion products of the System for multiple users
24 within the service area of the Regional Informa-
25 tion Coordination Entities and otherwise.

1 (5) SYSTEM ADVISORY COMMITTEE.—

2 (A) IN GENERAL.—The Administrator
3 shall establish a System Advisory Committee,
4 which shall provide advice as may be requested
5 by the Administrator or the Interagency Work-
6 ing Group.

7 (B) PURPOSE.—The purpose of the Sys-
8 tem Advisory Committee is to advise the Ad-
9 ministrator and the Interagency Working Group
10 on—

11 (i) administration, operation, manage-
12 ment, and maintenance of the System, in-
13 cluding integration of Federal and non-
14 Federal assets and data management and
15 communication aspects of the System, and
16 fulfillment of the purposes specified under
17 subsection (b);

18 (ii) expansion and periodic moderniza-
19 tion and upgrade of technology components
20 of the System;

21 (iii) identification of end-user commu-
22 nities, their needs for information provided
23 by the System, and the System's effective-
24 ness in disseminating information to end-

1 user communities and the general public;
2 and

3 (iv) any other purpose identified by
4 the Administrator or the Interagency
5 Working Group.

6 (C) MEMBERS.—

7 (i) IN GENERAL.—The System Advi-
8 sory Committee shall be composed of mem-
9 bers appointed by the Administrator. Mem-
10 bers shall be qualified by education, train-
11 ing, and experience to evaluate scientific
12 and technical information related to the
13 design, operation, maintenance, or use of
14 the System, or use of data products pro-
15 vided through the System.

16 (ii) TERMS OF SERVICE.—Members
17 shall be appointed for 3-year terms, renew-
18 able once. A vacancy appointment shall be
19 for the remainder of the unexpired term of
20 the vacancy, and an individual so ap-
21 pointed may subsequently be appointed for
22 2 full 3-year terms if the remainder of the
23 unexpired term is less than one year.

24 (iii) CHAIRPERSON.—The Adminis-
25 trator shall designate a chairperson from

1 among the members of the System Advi-
2 sory Committee.

3 (iv) APPOINTMENT.—Members of the
4 System Advisory Committee shall be ap-
5 pointed as special Government employees
6 for purposes of section 202(a) of title 18,
7 United States Code.

8 (D) ADMINISTRATIVE PROVISIONS.—

9 (i) REPORTING.—The System Advi-
10 sory Committee shall report to the Admin-
11 istrator and the Interagency Working
12 Group, as appropriate.

13 (ii) ADMINISTRATIVE SUPPORT.—The
14 Administrator shall provide administrative
15 support to the System Advisory Com-
16 mittee.

17 (iii) MEETINGS.—The System Advi-
18 sory Committee shall meet at least once
19 each year, and at other times at the call of
20 the Administrator, the Interagency Work-
21 ing Group, or the chairperson.

22 (iv) COMPENSATION AND EX-
23 PENSES.—Members of the System Advi-
24 sory Committee shall not be compensated
25 for service on that Committee, but may be

1 allowed travel expenses, including per diem
2 in lieu of subsistence, in accordance with
3 subchapter I of chapter 57 of title 5,
4 United States Code.

5 (v) EXPIRATION.—Section 14 of the
6 Federal Advisory Committee Act (5 U.S.C.
7 App.) shall not apply to the System Advi-
8 sory Committee.

9 (6) CIVIL LIABILITY.—For purposes of deter-
10 mining liability arising from the dissemination and
11 use of observation data gathered pursuant to this
12 section, any non-Federal asset or Regional Informa-
13 tion Coordination Entity that is certified under
14 paragraph (3)(D) and that is participating in the
15 System shall be considered to be part of the Na-
16 tional Oceanic and Atmospheric Administration. Any
17 employee of such a non-Federal asset or Regional
18 Information Coordination Entity, while operating
19 within the scope of his or her employment in car-
20 rying out the purposes of this section, with respect
21 to tort liability, is deemed to be an employee of the
22 Federal Government.

23 (f) INTERAGENCY FINANCING, GRANTS, CONTRACTS,
24 AND AGREEMENTS.—

1 (1) IN GENERAL.—The member departments
2 and agencies of the Council, subject to the avail-
3 ability of appropriations, may participate in inter-
4 agency financing and share, transfer, receive, obli-
5 gate, and expend funds appropriated to any member
6 agency for the purposes of carrying out any adminis-
7 trative or programmatic project or activity to further
8 the purposes of this section, including support for
9 the Interagency Working Group, the Interagency Co-
10 ordinating Program Office, a common infrastruc-
11 ture, and integration to expand or otherwise enhance
12 the System.

13 (2) JOINT CENTERS AND AGREEMENTS.—Mem-
14 ber Departments and agencies of the Council shall
15 have the authority to create, support, and maintain
16 joint centers, and to enter into and perform such
17 contracts, leases, grants, and cooperative agreements
18 as may be necessary to carry out the purposes of
19 this section and fulfillment of the System Plan.

20 (g) APPLICATION WITH OTHER LAWS.—Nothing in
21 this section supersedes or limits the authority of any agen-
22 cy to carry out its responsibilities and missions under
23 other laws.

24 (h) REPORT TO CONGRESS.—

1 (1) IN GENERAL.—Not later than two years
2 after the date of enactment of this section, the Ad-
3 ministrator through the Council shall submit to Con-
4 gress a report that describes the status of the Sys-
5 tem and progress made to achieve the purposes of
6 this section and the goals identified under the Sys-
7 tem Plan.

8 (2) CONTENTS.—The report shall include dis-
9 cussion of the following:

10 (A) Identification of Federal and non-Fed-
11 eral assets as determined by the Council that
12 have been integrated into the System, including
13 assets essential to the gathering of required ob-
14 servation data variables necessary to meet the
15 respective missions of Council agencies.

16 (B) A review of procurements, planned or
17 initiated, by each Council agency to enhance,
18 expand, or modernize the observation capabili-
19 ties and data products provided by the System,
20 including data management and communication
21 subsystems.

22 (C) An assessment regarding activities to
23 integrate Federal and non-Federal assets, na-
24 tionally and on the regional level, and discus-
25 sion of the performance and effectiveness of Re-

1 regional Information Coordination Entities to co-
2 ordinate regional observation operations.

3 (D) An evaluation of progress made by the
4 Council to achieve the purposes of this section
5 and the goals identified under the System Plan.

6 (E) Recommendations for operational im-
7 provements to enhance the efficiency, accuracy,
8 and overall capability of the System.

9 (3) BIENNIAL UPDATE.—Two years after the
10 transmittal of the initial report prepared pursuant to
11 this subsection and biennially thereafter, the Admin-
12 istrator, through the Council, shall submit to Con-
13 gress an update of the initial report.

14 (i) PUBLIC-PRIVATE USE POLICY.—The Council
15 shall develop a policy within 6 months after the date of
16 the enactment of this section that defines processes for
17 making decisions about the roles of the Federal Govern-
18 ment, the States, Regional Information Coordination En-
19 tities, the academic community, and the private sector in
20 providing to end-user communities environmental informa-
21 tion, products, technologies, and services related to the
22 System. The Council shall publish the policy in the Fed-
23 eral Register for public comment for a period not less than
24 60 days. Nothing in this subsection shall be construed to

1 require changes in policy in effect on the date of the enact-
2 ment of this Act.

3 (j) INDEPENDENT COST ESTIMATE.—The Inter-
4 agency Working Group, through the Administrator and
5 the Director of the National Science Foundation, shall ob-
6 tain within one year after the date of the enactment of
7 this section an independent cost estimate for operations
8 and maintenance of existing Federal assets of the System,
9 and planned or anticipated acquisition, operation, and
10 maintenance of new Federal assets for the System, includ-
11 ing operation facilities, observation equipment, modeling
12 and software, data management and communication, and
13 other essential components. The independent cost estimate
14 shall be transmitted unabridged and without revision by
15 the Administrator to Congress.

16 (k) INTENT OF CONGRESS.—It is the intent of Con-
17 gress that funding provided to agencies of the Council to
18 implement this section shall supplement, and not replace,
19 existing sources of funding for other programs. It is the
20 further intent of Congress that agencies of the Council
21 shall not enter into contracts or agreements for the devel-
22 opment or procurement of new Federal assets for the Sys-
23 tem that are estimated to be in excess of \$250,000,000
24 in life-cycle costs without first providing adequate notice
25 to Congress and opportunity for review and comment.