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:

SECTION 1. ENHANCING CLIMATE CHANGE PREDICTIONS.

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

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

(1) Establish a National Integrated Coastal and Ocean Observation System comprised of Federal and non-Federal components, coordinated at the national level by the National Ocean Research Leadership Council and at the regional level by a network of Regional Information Coordination Entities, that includes in situ, remote, and other coastal and ocean observations, technologies, and data management and communication systems, to gather specific coastal and ocean data variables and to ensure the timely dissemination and availability of usable observation data—
(A) to support national defense, marine commerce, energy production, scientific research, ecosystem-based marine and coastal resource management, weather and marine forecasting, public safety and public outreach training and education; and

(B) to promote greater public awareness and stewardship of the Nation’s ocean, coastal, and Great Lakes resources and the general public welfare.

(2) Improve the Nation’s capability to measure, track, explain, and predict events related directly and indirectly to weather and climate change, natural climate variability, and interactions between the oceanic and atmospheric environments, including the Great Lakes.

(3) Authorize activities to promote basic and applied research to develop, test, and deploy innovations and improvements in coastal and ocean observation technologies, modeling systems, and other scientific and technological capabilities to improve our conceptual understanding of weather and climate, ocean atmosphere dynamics, global climate change, and physical, chemical, and biological dynamics of
the ocean and coastal and Great Lakes environments.

(c) DEFINITIONS.—In this section:

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

(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.

(3) FEDERAL ASSETS.—The term “Federal assets” means all relevant nonclassified civilian coastal and ocean observations, technologies, and related modeling, research, data management, basic and applied technology research and development, and public education and outreach programs, that are managed by member agencies of the Council.

(4) INTERAGENCY WORKING GROUP.—The term “Interagency Working Group” means the Interagency Working Group on Ocean Observations as established by the U.S. Ocean Policy Committee Subcommittee on Ocean Science and Technology pursuant to Executive Order 13366 signed December 17, 2004.
(5) NON-FEDERAL ASSETS.—The term “non-Federal assets” means all relevant coastal and ocean observations, technologies, related basic and applied technology research and development, and public education and outreach programs that are integrated into the System and are managed through States, regional organizations, universities, nongovernmental organizations, or the private sector.

(6) REGIONAL INFORMATION COORDINATION ENTITIES.—

(A) IN GENERAL.—The term “Regional Information Coordination Entity”, subject to subparagraphs (B) and (C), means an organizational body that is certified or established by the lead Federal agency designated in subsection (d)(3)(C)(iii) and coordinating State, Federal, local, and private interests at a regional level with the responsibility of engaging the private and public sectors in designing, operating, and improving regional coastal and ocean observing systems in order to ensure the provision of data and information that meet the needs of user groups from the respective regions.
(B) INCLUDED ASSOCIATIONS.—Such term includes Regional Associations as described by the System Plan.

(C) LIMITATION.—Nothing in this section shall be construed to invalidate existing certifications, contracts, or agreements between Regional Associations and other elements of the System.

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


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

(1) ESTABLISHMENT.—The President, acting through the Council, shall establish a National Integrated Coastal and Ocean Observation System to fulfill the purposes set forth in subsection (b) and the System plan and to fulfill the Nation’s international obligations to contribute to the global earth
observation system of systems and the global ocean observing system.

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

(3) AVAILABILITY OF DATA.—The head of each Federal agency that has administrative jurisdiction over a Federal asset shall make available data that are produced by that asset and that are not otherwise restricted for integration, management, and dissemination by the System.

(4) ENHANCING ADMINISTRATION AND MANAGEMENT.—The head of each Federal agency that has administrative jurisdiction over a Federal asset may take appropriate actions to enhance internal agency administration and management to better support, integrate, finance, and utilize observation data, products, and services developed under this section to further its own agency mission and responsibilities.

(5) PARTICIPATION IN REGIONAL INFORMATION COORDINATION ENTITY.—The head of each Federal agency that has administrative jurisdiction over a Federal asset may participate in regional information coordination entity activities.
(6) Non-Federal Assets.—Non-Federal assets shall be coordinated by the Interagency Working Group or by Regional Information Coordination Entities.

(c) Policy Oversight, Administration, and Regional Coordination.—

(1) National Ocean Research Leadership Council.—The National Ocean Research Leadership Council shall be responsible for establishing broad coordination and long-term operations plans, policies, protocols, and standards for the System consistent with the policies, goals, and objectives contained in the System Plan, and coordination of the System with other earth observing activities.

(2) Interagency Working Group.—The Interagency Working Group shall, with respect to the System, be responsible for—

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

(B) development of and transmittal to Congress at the time of submission of the President’s annual budget request an annual coordinated, comprehensive System budget;
(C) identification of gaps in observation coverage or needs for capital improvements of both Federal assets and non-Federal assets;

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

(E) establishment of required observation data variables;

(F) development of certification standards for all non-Federal assets or Regional Information Coordination Entities to be eligible for integration into the System;

(G) subject to the availability of appropriations, establish through one or more participating Federal agencies, in consultation with the System Advisory Committee established under paragraph (5), a competitive matching grant or other program to promote research and development of innovative observation technologies including testing and field trials; and

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

(3) LEAD FEDERAL AGENCY.—The Administrator shall function as the lead Federal agency for the System. The Administrator may establish an Interagency Program Coordinating Office to facili-
tate the Administrator’s responsibilities as the lead Federal agency for System oversight and management. The Administrator shall—

(A) implement policies, protocols, and standards established by the Council and delegated by the Interagency Working Group;

(B) promulgate regulations to integrate the participation of non-Federal assets into the System and enter into and oversee contracts and agreements with Regional Information Coordination Entities to effect this purpose;

(C) implement a competitive funding process for the purpose of assigning contracts and agreements to Regional Information Coordination Entities;

(D) certify or establish Regional Information Coordination Entities to coordinate State, Federal, local, and private interests at a regional level with the responsibility of engaging private and public sectors in designing, operating, and improving regional coastal and ocean observing systems in order to ensure the provision of data and information that meet the needs of user groups from the respective regions;
(E) formulate a process by which gaps in observation coverage or needs for capital improvements of Federal assets and non-Federal assets of the System can be identified by the Regional Information Coordination Entities, the Administrator, or other members of the System and transmitted to the Interagency Working Group;

(F) be responsible for the coordination, storage, management, and dissemination of observation data gathered through the System to all end-user communities;

(G) implement a program of public education and outreach to improve public awareness of global climate change and effects on the ocean, coastal, and Great Lakes environment; and

(H) report annually to the Council through the Interagency Working Group on the accomplishments, operational needs, and performance of the System to achieve the purposes of this title and the System Plan.

(4) Regional Information Coordination Entity.—To be certified or established under paragraph (3)(D), a Regional Information Coordination
Entity must be certified or established by contract or agreement by the Administrator, and must agree to—

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

(B) identify gaps in observation coverage or needs for capital improvements of Federal assets and non-Federal assets of the System, and transmit such information to the Intergovernmental Working Group via the Administrator;

(C) demonstrate an organizational structure and strategic operational plan to ensure the efficient and effective administration of programs and assets to support daily data observations for integration into the System;

(D) comply with all financial oversight requirements established by the Administrator, including requirements relating to audits; and

(E) demonstrate a capability to work with other governmental and nongovernmental entities at all levels to identify and provide information products of the System for multiple users within the service area of the Regional Information Coordination Entities and otherwise.
(5) SYSTEM ADVISORY COMMITTEE.—

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

(B) PURPOSE.—The purpose of the System Advisory Committee is to advise the Administrator and the Interagency Working Group on—

(i) administration, operation, management, and maintenance of the System, including integration of Federal and non-Federal assets and data management and communication aspects of the System, and fulfillment of the purposes specified under subsection (b);

(ii) expansion and periodic modernization and upgrade of technology components of the System;

(iii) identification of end-user communities, their needs for information provided by the System, and the System’s effectiveness in disseminating information to end-
user communities and the general public;

and

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

(C) MEMBERS.—

(i) IN GENERAL.—The System Advisory Committee shall be composed of members appointed by the Administrator. Members shall be qualified by education, training, and experience to evaluate scientific and technical information related to the design, operation, maintenance, or use of the System, or use of data products provided through the System.

(ii) TERMS OF SERVICE.—Members shall be appointed for 3-year terms, renewable once. A vacancy appointment shall be for the remainder of the unexpired term of the vacancy, and an individual so appointed may subsequently be appointed for 2 full 3-year terms if the remainder of the unexpired term is less than one year.

(iii) CHAIRPERSON.—The Administrator shall designate a chairperson from
among the members of the System Advisory Committee.

(iv) APPOINTMENT.—Members of the System Advisory Committee shall be appointed as special Government employees for purposes of section 202(a) of title 18, United States Code.

(D) ADMINISTRATIVE PROVISIONS.—

(i) REPORTING.—The System Advisory Committee shall report to the Administrator and the Interagency Working Group, as appropriate.

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

(iii) MEETINGS.—The System Advisory Committee shall meet at least once each year, and at other times at the call of the Administrator, the Interagency Working Group, or the chairperson.

(iv) COMPENSATION AND EXPENSES.—Members of the System Advisory Committee shall not be compensated for service on that Committee, but may be
allowed travel expenses, including per diem
in lieu of subsistence, in accordance with
subchapter I of chapter 57 of title 5,
United States Code.

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

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

(f) INTERAGENCY FINANCING, GRANTS, CONTRACTS,
AND AGREEMENTS.—
(1) IN GENERAL.—The member departments and agencies of the Council, subject to the availability of appropriations, may participate in interagency financing and share, transfer, receive, obligate, and expend funds appropriated to any member agency for the purposes of carrying out any administrative or programmatic project or activity to further the purposes of this section, including support for the Interagency Working Group, the Interagency Coordinating Program Office, a common infrastructure, and integration to expand or otherwise enhance the System.

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

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

(h) REPORT TO CONGRESS.—
(1) IN GENERAL.—Not later than two years after the date of enactment of this section, the Administrator through the Council shall submit to Congress a report that describes the status of the System and progress made to achieve the purposes of this section and the goals identified under the System Plan.

(2) CONTENTS.—The report shall include discussion of the following:

(A) Identification of Federal and non-Federal assets as determined by the Council that have been integrated into the System, including assets essential to the gathering of required observation data variables necessary to meet the respective missions of Council agencies.

(B) A review of procurements, planned or initiated, by each Council agency to enhance, expand, or modernize the observation capabilities and data products provided by the System, including data management and communication subsystems.

(C) An assessment regarding activities to integrate Federal and non-Federal assets, nationally and on the regional level, and discussion of the performance and effectiveness of Re-
regional Information Coordination Entities to co-
ordinate regional observation operations.

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

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

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

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

(j) INDEPENDENT COST ESTIMATE.—The Interagency Working Group, through the Administrator and the Director of the National Science Foundation, shall obtain within one year after the date of the enactment of this section an independent cost estimate for operations and maintenance of existing Federal assets of the System, and planned or anticipated acquisition, operation, and maintenance of new Federal assets for the System, including operation facilities, observation equipment, modeling and software, data management and communication, and other essential components. The independent cost estimate shall be transmitted unabridged and without revision by the Administrator to Congress.

(k) INTENT OF CONGRESS.—It is the intent of Congress that funding provided to agencies of the Council to implement this section 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.