

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2342

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IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 13), 2008

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

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## AN ACT

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,*

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—

19 (A) to support national defense, marine  
20 commerce, energy production, scientific re-  
21 search, ecosystem-based marine and coastal re-  
22 source management, weather and marine fore-  
23 casting, public safety and public outreach train-  
24 ing and education; and

25 (B) to promote greater public awareness  
26 and stewardship of the Nation’s ocean, coastal,

1           and Great Lakes resources and the general  
2           public welfare.

3           (2) Improve the Nation’s capability to measure,  
4           track, explain, and predict events related directly  
5           and indirectly to weather and climate change, nat-  
6           ural climate variability, and interactions between the  
7           oceanic and atmospheric environments, including the  
8           Great Lakes.

9           (3) Authorize activities to promote basic and  
10          applied research to develop, test, and deploy innova-  
11          tions and improvements in coastal and ocean obser-  
12          vation technologies, modeling systems, and other sci-  
13          entific and technological capabilities to improve our  
14          conceptual understanding of weather and climate,  
15          ocean atmosphere dynamics, global climate change,  
16          and physical, chemical, and biological dynamics of  
17          the ocean and coastal and Great Lakes environ-  
18          ments.

19          (c) DEFINITIONS.—In this section:

20           (1) COUNCIL.—The term “Council” means the  
21          National Ocean Research Leadership Council re-  
22          ferred to in section 7902 of title 10, United States  
23          Code.

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

4           (3) FEDERAL ASSETS.—The term “Federal as-  
5           sets” means all relevant nonclassified civilian coastal  
6           and ocean observations, technologies, and related  
7           modeling, research, data management, basic and ap-  
8           plied technology research and development, and pub-  
9           lic education and outreach programs, that are man-  
10          aged by member agencies of the Council.

11          (4) INTERAGENCY WORKING GROUP.—The term  
12          “Interagency Working Group” means the Inter-  
13          agency Working Group on Ocean Observations as es-  
14          tablished by the U.S. Ocean Policy Committee Sub-  
15          committee on Ocean Science and Technology pursu-  
16          ant to Executive Order No. 13366 signed December  
17          17, 2004.

18          (5) NON-FEDERAL ASSETS.—The term “non-  
19          Federal assets” means all relevant coastal and ocean  
20          observations, technologies, related basic and applied  
21          technology research and development, and public  
22          education and outreach programs that are integrated  
23          into the System and are managed through States,  
24          regional organizations, universities, nongovernmental  
25          organizations, or the private sector.

1           (6) REGIONAL INFORMATION COORDINATION  
2 ENTITIES.—

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

17           (B) INCLUDED ASSOCIATIONS.—Such term  
18 includes Regional Associations as described by  
19 the System Plan.

20           (C) LIMITATION.—Nothing in this section  
21 shall be construed to invalidate existing certifi-  
22 cations, contracts, or agreements between Re-  
23 gional Associations and other elements of the  
24 System.

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

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

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

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

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

22           (3) AVAILABILITY OF DATA.—The head of each  
23 Federal agency that has administrative jurisdiction  
24 over a Federal asset shall make available data that  
25 are produced by that asset and that are not other-

1 wise restricted for integration, management, and dis-  
2 semination by the System.

3 (4) ENHANCING ADMINISTRATION AND MAN-  
4 AGEMENT.—The head of each Federal agency that  
5 has administrative jurisdiction over a Federal asset  
6 may take appropriate actions to enhance internal  
7 agency administration and management to better  
8 support, integrate, finance, and utilize observation  
9 data, products, and services developed under this  
10 section to further its own agency mission and re-  
11 sponsibilities.

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

17 (6) NON-FEDERAL ASSETS.—Non-Federal as-  
18 sets shall be coordinated by the Interagency Work-  
19 ing Group or by Regional Information Coordination  
20 Entities.

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

23 (1) NATIONAL OCEAN RESEARCH LEADERSHIP  
24 COUNCIL.—The National Ocean Research Leader-  
25 ship Council shall be responsible for establishing

1 broad coordination and long-term operations plans,  
2 policies, protocols, and standards for the System  
3 consistent with the policies, goals, and objectives  
4 contained in the System Plan, and coordination of  
5 the System with other earth observing activities.

6 (2) INTERAGENCY WORKING GROUP.—The  
7 Interagency Working Group shall, with respect to  
8 the System, be responsible for—

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

11 (B) development of and transmittal to  
12 Congress at the time of submission of the  
13 President’s annual budget request an annual  
14 coordinated, comprehensive System budget;

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

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

20 (E) establishment of required observation  
21 data variables;

22 (F) development of certification standards  
23 for all non-Federal assets or Regional Informa-  
24 tion Coordination Entities to be eligible for in-  
25 tegration into the System;

1 (G) subject to the availability of appropria-  
2 tions, establish through one or more partici-  
3 pating Federal agencies, in consultation with  
4 the System Advisory Committee established  
5 under paragraph (5), a competitive matching  
6 grant or other program to promote research  
7 and development of innovative observation tech-  
8 nologies including testing and field trials; and

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

11 (3) LEAD FEDERAL AGENCY.—The Adminis-  
12 trator shall function as the lead Federal agency for  
13 the System. The Administrator may establish an  
14 Interagency Program Coordinating Office to facili-  
15 tate the Administrator’s responsibilities as the lead  
16 Federal agency for System oversight and manage-  
17 ment. The Administrator shall—

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

21 (B) promulgate regulations to integrate  
22 the participation of non-Federal assets into the  
23 System and enter into and oversee contracts  
24 and agreements with Regional Information Co-  
25 ordination Entities to effect this purpose;

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

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

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

23 (F) be responsible for the coordination,  
24 storage, management, and dissemination of ob-

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

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

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

13          (4) REGIONAL INFORMATION COORDINATION  
14          ENTITY.—To be certified or established under para-  
15          graph (3)(D), a Regional Information Coordination  
16          Entity must be certified or established by contract  
17          or agreement by the Administrator, and must agree  
18          to—

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

22                 (B) identify gaps in observation coverage  
23                 or needs for capital improvements of Federal  
24                 assets and non-Federal assets of the System,

1 and transmit such information to the Inter-  
2 agency Working Group via the Administrator;

3 (C) demonstrate an organizational struc-  
4 ture and strategic operational plan to ensure  
5 the efficient and effective administration of pro-  
6 grams and assets to support daily data observa-  
7 tions for integration into the System;

8 (D) comply with all financial oversight re-  
9 quirements established by the Administrator,  
10 including requirements relating to audits; and

11 (E) demonstrate a capability to work with  
12 other governmental and nongovernmental enti-  
13 ties at all levels to identify and provide informa-  
14 tion products of the System for multiple users  
15 within the service area of the Regional Informa-  
16 tion Coordination Entities and otherwise.

17 (5) SYSTEM ADVISORY COMMITTEE.—

18 (A) IN GENERAL.—The Administrator  
19 shall establish a System Advisory Committee,  
20 which shall provide advice as may be requested  
21 by the Administrator or the Interagency Work-  
22 ing Group.

23 (B) PURPOSE.—The purpose of the Sys-  
24 tem Advisory Committee is to advise the Ad-

1 administrator and the Interagency Working Group  
2 on—

3 (i) administration, operation, manage-  
4 ment, and maintenance of the System, in-  
5 cluding integration of Federal and non-  
6 Federal assets and data management and  
7 communication aspects of the System, and  
8 fulfillment of the purposes specified under  
9 subsection (b);

10 (ii) expansion and periodic moderniza-  
11 tion and upgrade of technology components  
12 of the System;

13 (iii) identification of end-user commu-  
14 nities, their needs for information provided  
15 by the System, and the System's effective-  
16 ness in disseminating information to end-  
17 user communities and the general public;  
18 and

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

22 (C) MEMBERS.—

23 (i) IN GENERAL.—The System Advi-  
24 sory Committee shall be composed of mem-  
25 bers appointed by the Administrator. Mem-

1           bers shall be qualified by education, train-  
2           ing, and experience to evaluate scientific  
3           and technical information related to the  
4           design, operation, maintenance, or use of  
5           the System, or use of data products pro-  
6           vided through the System.

7           (ii) TERMS OF SERVICE.—Members  
8           shall be appointed for 3-year terms, renew-  
9           able once. A vacancy appointment shall be  
10          for the remainder of the unexpired term of  
11          the vacancy, and an individual so ap-  
12          pointed may subsequently be appointed for  
13          2 full 3-year terms if the remainder of the  
14          unexpired term is less than one year.

15          (iii) CHAIRPERSON.—The Adminis-  
16          trator shall designate a chairperson from  
17          among the members of the System Advi-  
18          sory Committee.

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

24          (D) ADMINISTRATIVE PROVISIONS.—

1 (i) REPORTING.—The System Advi-  
2 sory Committee shall report to the Admin-  
3 istrator and the Interagency Working  
4 Group, as appropriate.

5 (ii) ADMINISTRATIVE SUPPORT.—The  
6 Administrator shall provide administrative  
7 support to the System Advisory Com-  
8 mittee.

9 (iii) MEETINGS.—The System Advi-  
10 sory Committee shall meet at least once  
11 each year, and at other times at the call of  
12 the Administrator, the Interagency Work-  
13 ing Group, or the chairperson.

14 (iv) COMPENSATION AND EX-  
15 PENSES.—Members of the System Advi-  
16 sory Committee shall not be compensated  
17 for service on that Committee, but may be  
18 allowed travel expenses, including per diem  
19 in lieu of subsistence, in accordance with  
20 subchapter I of chapter 57 of title 5,  
21 United States Code.

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

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

15          (f) INTERAGENCY FINANCING, GRANTS, CONTRACTS,  
16          AND AGREEMENTS.—

17               (1) IN GENERAL.—The member departments  
18               and agencies of the Council, subject to the avail-  
19               ability of appropriations, may participate in inter-  
20               agency financing and share, transfer, receive, obli-  
21               gate, and expend funds appropriated to any member  
22               agency for the purposes of carrying out any adminis-  
23               trative or programmatic project or activity to further  
24               the purposes of this section, including support for  
25               the Interagency Working Group, the Interagency Co-

1       ordinating Program Office, a common infrastruc-  
2       ture, and integration to expand or otherwise enhance  
3       the System.

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

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

15             (h) REPORT TO CONGRESS.—

16               (1) IN GENERAL.—Not later than two years  
17      after the date of enactment of this section, the Ad-  
18      ministrator through the Council shall submit to Con-  
19      gress a report that describes the status of the Sys-  
20      tem and progress made to achieve the purposes of  
21      this section and the goals identified under the Sys-  
22      tem Plan.

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

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

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

13          (C) An assessment regarding activities to  
14          integrate Federal and non-Federal assets, nationally  
15          and on the regional level, and discussion  
16          of the performance and effectiveness of Regional  
17          Information Coordination Entities to coordinate  
18          regional observation operations.

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

22          (E) Recommendations for operational improvements  
23          to enhance the efficiency, accuracy, and overall  
24          capability of the System.

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

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

19          (j) INDEPENDENT COST ESTIMATE.—The Inter-  
20          agency Working Group, through the Administrator and  
21          the Director of the National Science Foundation, shall ob-  
22          tain within one year after the date of the enactment of  
23          this section an independent cost estimate for operations  
24          and maintenance of existing Federal assets of the System,  
25          and planned or anticipated acquisition, operation, and

