

**Northeastern Regional Association of Coastal Ocean Observing Systems
(NERACOOS)**

Conflict of Interest Policy

Article 1

Purpose and Overview

Administrators, directors and officers of the Northeastern Regional Association of Coastal Ocean Observing Systems (NERACOOS) (“the Corporation”) have an obligation to carry out their responsibilities within guidelines that minimize and make transparent actual or potential Conflicts of Interest. This Conflict of Interest Policy establishes an ethical framework of transparency within which the Corporation wishes to conduct its affairs. The purpose of this Policy is to provide specific direction so that administrators, directors, and officers will be aware of and comply with their obligations.

One kind of Conflict of Interest exists when an Interested Person has an Outside Commitment Interest that may be substantially affected by a matter under discussion by the Corporation, as specified in Article II.4. An example is where a vote by the Corporation to approve a particular policy or transaction would be contrary to the interests of an organization for which a director is employed or volunteers.

A second kind of Conflict of Interest exists when an Interested Person stands to receive a Substantial Financial Benefit from the matter under discussion, also as specified in Article II.4. Examples of financial Conflicts of Interest include self-dealing or employment of an Interested Person’s family member by the Corporation.

If an Interested Person or the Board believes that a Conflict of Interest may exist, the Interested Person and the Board shall follow the procedures outlined in Article III. These procedures entail disclosure and, in certain cases, recusal.

**Article II
Definitions**

1. Interested Person

Any current or recent (within the past 12 months) director, officer, or administrator of the Corporation is an Interested Person.

2. Outside Commitment Interest

An Interested Person has an Outside Commitment Interest if the person has, directly or indirectly, or through a Family Member:

- a. A legal commitment, including by virtue of employment or a volunteer position, to serve the best interests of another entity; or
- b. An actual or potential ownership interest in any entity.

An Outside Commitment Interest is not necessarily a Conflict of Interest. Under Article III, Section 2, an Interested Person who has an Outside Commitment Interest may have a Conflict of Interest only if the Board decides that a Conflict of Interest exists.

3. Substantial Financial Benefit

A Substantial Financial Benefit is a financial benefit that is more than *de minimis* (approximately \$250) and is not incidental to a larger benefit to the general public.

4. Family Member.

A Family Member is a:

- (a) spouse or domestic partner;
- (b) parent or grandparent (biological or adopted);
- (c) child, grandchild or great grandchild (biological or adopted);
- (d) brother or sister; or
- (e) spouse or domestic partner of a child, parent, brother, sister, grandchild or great grandchild.

5. Conflict of Interest. A Conflict of Interest shall exist if:

(a) an Interested Person has an Outside Commitment Interest that will be substantially affected, either positively or negatively, by the matter under discussion; or

(b) an Interested Person or a Family Member of an Interested Person will receive a Substantial Financial Benefit from the matter under discussion.

**Article III
Procedures**

1. Duty to Disclose

Any Interested Person having knowledge of any actual or potential Conflict of Interest must disclose the existence of the Outside Commitment Interest or Substantial Financial Benefit and be given the opportunity to disclose all material facts to the Board directors.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the Outside Commitment Interest or Substantial Financial Benefit and all material facts, and after any discussion with the Interested Person(s), the disinterested Board members shall decide if a Conflict of Interest exists.

The determination that a Conflict of Interest exists shall not preclude the Board (other than the conflicted Interested Person(s)) from approving the matter, but such determination shall require the Board to follow the procedures outlined in Article III, Section 3 herein below.

3. Procedures for Addressing the Conflict of Interest

a. An Interested Person who has a Conflict of Interest may make a presentation at the Board meeting. After such presentation, he/she shall be asked to leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the Conflict of Interest unless the Board judges that automatic exclusion would compromise the Board's ability to make a decision. Inclusion can apply, however, only when the party in question has no plan to work on the project under consideration. Where inclusion of a conflicted party in discussions is allowed, it must be solely on the grounds that the value to the quality and integrity of the review process is deemed to outweigh any residual suggestion of bias arising from the declared Conflict of Interest. In no case shall the Conflicted party participate in or observe voting on or ranking of projects under evaluation.

b. The President of the Board may, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement. In exceptional circumstances involving significant transactions, the Board may request that the transaction be approved by the Attorney General or by the Superior Court in an action in which the Attorney General is joined as a party, in accordance with 13-B Maine Revised Statutes Annotated section 718(3), as amended.

c. If the Conflict of Interest involves a Substantial Financial Benefit to the Interested Person, after exercising due diligence, the Board may consider whether the Corporation can obtain with reasonable efforts a more advantageous transaction from a person or entity that would not give rise to a Conflict of Interest.

d. The Board shall determine by a majority vote of the disinterested directors whether the transaction is in the Corporation's best interest, for its own benefit, and whether it is fair and equitable to the Corporation. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction.

4. Violations of the Conflicts of Interest Policy

a. If the Board has reasonable cause to believe an Interested Person has failed to disclose an Outside Commitment Interest or Substantial Financial Benefit, it shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose.

b. If, after hearing the person's response and after making further investigation as warranted by the circumstances, the Board determines the person has failed to disclose an Outside Commitment Interest or a Substantial Financial Benefit, it shall take appropriate steps to remedy the non-disclosure.

c. Failure to identify an Outside Commitment Interest or a Substantial Financial Benefit at the time a transaction or arrangement is entered into shall not automatically void the transaction or arrangement, and the Board may follow the procedures of this Article III after the consummation of the transaction or arrangement.

Article IV
Records of Proceedings

The minutes of the Board shall contain:

a. The names of the persons who disclosed or otherwise were found to have an Outside Commitment Interest or Substantial Financial Benefit, the nature of the Outside Commitment Interest or Substantial Financial Benefit, any action taken to determine whether a Conflict of Interest was present, and the Board's decision as to whether a Conflict of Interest in fact existed; and

b. The names of the persons who were present for discussions and votes relating to the transaction, the content of the discussion, including any alternatives to the proposed transaction, and a record of any votes taken in connection with the proceedings.

Article V
Compensation

a. A voting member of the Board who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

c. A voting member of the Board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is not prohibited from providing information to any committee regarding compensation.

d. The Board shall ensure that any compensation paid to employees, and any compensation over \$10,000 per year paid to independent contractors, even if not Interested Persons, is "reasonable" for the purposes of Internal Revenue Code Section 4958 and accompanying regulations. Whenever practicable, the Board shall base its reasonableness determination on at least three comparable examples, taking into account the job description, the size and nature of the corporation, the experience of the applicant, any benefits, and the geographic location.

Article VI
Inside Information

a. An Interested Person shall not use inside information of the Corporation for his/her personal benefit, or use such inside information or his/her position as an Interested Person to the detriment of the Corporation. Inside information is information obtained

through the Interested Person's position in the Corporation that has not become public information.

b. An Interested Person shall keep information learned during the course of the Corporation's activities in confidence when the information concerns the administration and activities of the Corporation that are not generally available to the public.

**Article VII
Annual Statements**

Each Interested Person shall annually sign a Disclosure Statement affirming that such person:

- a. Has received a copy of the Conflict of Interest policy,
- b. Has read and understands the policy,
- c. Has agreed to comply with the policy, and

d. Understands the Corporation is charitable and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

**Article VIII
Updates of Annual Statements**

Administrators, directors and officers are expected to update their annual statements whenever conflicts arise or cease. Prior to participation in review of competitive proposals by the Corporation, review participants must revisit and update their annual statements as dictated by current circumstances.

CERTIFICATION

I, the undersigned, do hereby certify that the above and foregoing Conflict of Interest Policy was duly adopted on 2/20/2009 by the Corporation at a regular meeting of the Board of Directors held on due notice and in compliance with its Bylaws at which time a quorum was present.

 (Signature)

Date: 8/31/09

Cheryl M. Zimmerman (Print Name) Secretary