

## **BY-LAWS OF THE NORTHEASTERN REGIONAL ASSOCIATION OF COASTAL OCEAN OBSERVING SYSTEMS**

### **ARTICLE I**

#### **NAME; LOCATION; PURPOSES; POWERS**

Section 1. Name; Location. The name of this corporation is the “Northeastern Regional Association of Coastal Ocean Observing Systems” (hereinafter referred to as "NERACOOS" or the “Corporation”).

Section 2. Purposes. NERACOOS is organized as a public benefit nonprofit corporation under the Maine Nonprofit Corporation Act, Title 13-B M.R.S., as amended. The Corporation is organized exclusively for charitable, educational, and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. The nature of the activities to be conducted, or the specific purposes to be promoted or carried out by the Corporation, are as follows:

- a. To lead the development, implementation, operation, and evaluation of a sustained, regional coastal ocean observing system for the northeast United States and Canadian Maritime provinces, as part of the United States Integrated Ocean Observing System (IOOS);
- b. To promote the development, assessment, and dissemination of data and data products that meet the needs of end users; and
- c. To advocate through education and outreach for the regional, national, and global ocean observing system and the application of scientific assessments using environmental data to meet societal needs.

Section 3. Powers. The foregoing enumeration of specific purposes shall not be deemed to be exclusive, and in general the Corporation shall have the power to do all things incidental, necessary, or convenient to the carrying out of its general aims and as permitted by the laws of the State of Maine, as amended.

### **ARTICLE II**

#### **TAX EXEMPT PROVISIONS**

Section 1. Limitation on Activities.

- a. NERACOOS shall not carry on propaganda or otherwise attempt to influence legislation to such extent as would result in the loss of exemption under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. NERACOOS shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.
- b. Notwithstanding the foregoing statement of the specific and primary purpose, NERACOOS shall not engage in any activity which is not permitted to be engaged in:

- (1) By a corporation exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

- (2) By a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended; or
- (3) By a public charity described in Section 509(a)(1), (2) or (3) of the Internal Revenue Code of 1986, as amended.

Section 2. Prohibition against Private Inurement. No part of the net earnings, properties, or assets of NERACOOS, on dissolution or otherwise, shall inure to the benefit of any private person or individual or Director of NERACOOS, except that reasonable compensation may be paid for services rendered to or for NERACOOS in carrying out one or more of its purposes.

Section 3. Distribution of Assets. Upon dissolution of NERACOOS, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of NERACOOS, dispose of all of the assets of NERACOOS exclusively for the purpose of NERACOOS in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue law), as the Board of Directors shall determine, or shall be distributed to the federal government, or to a state or local government, for a public purpose.

### **ARTICLE III ANNUAL MEETING**

An Annual Meeting of the Directors of the Corporation shall be held at such time in November of each year, or as fixed by resolution of the Board of Directors, for the purpose of electing Directors and officers, and transacting such other business as may properly come before the meeting. Notice of the Annual Meeting shall be given at least thirty (30) days prior thereto by email or written notice delivered personally or mailed to each Director at such Director's address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, so addressed, with postage prepaid.

### **ARTICLE IV THE BOARD OF DIRECTORS**

Section 1. Powers and Duties. All corporate powers of the Corporation shall be exercised by or under the authority of the Board of Directors. Without limiting the generality of the foregoing, the Board of Directors shall elect the officers of NERACOOS and shall cause a full report concerning the affairs of NERACOOS to be rendered at the Annual Meeting of the Corporation.

Section 2. Number and Qualifications of Directors. The Board of Directors shall consist of no less than twelve (12) and no greater than twenty-five (25) Directors, not including non-voting Directors. To the greatest extent practicable, the voting Directors shall consist of:

- a. Up to seven (7) and at least four (4) Directors representing academic and research institutions;
- b. Up to seven (7) and at least four (4) Directors representing state and provincial governments;
- c. Up to seven (7) and at least four (4) Directors representing a cross section of marine-related industrial, governmental, non-profit organizations, and other users of ocean data and data products;
- d. At the discretion of the Board of Directors, up to four (4) additional persons who have knowledge or skills or represent geographies or constituencies deemed by the Board of Directors to be important to the success of the organization; and

- e. At least two (2) Directors included in subsections (a) – (d) above shall be domiciled in Canada.

Section 3. Election of Directors. The initial elections of Directors and the subsequent elections of Directors to succeed those whose terms of office are expiring shall be as follows:

- a. For the purpose of naming the initial Board of Directors, the Academic Consortium established by Memorandum of Understanding dated May 2007, may appoint seven (7) Directors from among the signatories to the Memorandum of Understanding, with not more than one representative from any one institution. If the Academic Consortium fails to appoint one or more Directors within one hundred eighty (180) days of the date of adoption of these Bylaws, those positions shall remain vacant until the next Annual Meeting of the Corporation.

After the initial appointment of the Board of Directors, the Academic Consortium shall be invited to nominate individuals to fill expired terms or vacancies of these seven (7) seats on the Board of Directors consistent with the guidance in the preceding paragraph, provided that there shall be not more than one individual at a time from any one institution serving on the Board. Nominations shall be submitted in writing to the Secretary of the Board at least forty-five (45) days prior to the meeting at which the nomination or nominations will be considered. Election of nominees to the Board of Directors shall be by majority vote of all Directors.

- b. For the purpose of naming the initial Board of Directors, the Northeast Regional Ocean Council (NROC), established by Resolution 29-3 of New England Governors and Eastern Canadian Premiers, dated August 29, 2005, a copy of which is appended to these Bylaws, may appoint seven (7) Directors, including at least one from each of the New England states that border coastal waters and at least one from a Canadian Maritime province. If NROC fails to appoint one or more Directors within one hundred eighty (180) days of the date of adoption of these Bylaws, those positions shall remain vacant until the next Annual Meeting of the Corporation.

After the initial appointment of the Board of Directors, NROC shall be invited to nominate individuals to fill expired terms or vacancies of these seven (7) seats on the Board of Directors consistent with the guidance in the preceding paragraph, provided that the Board, to the greatest extent practicable, shall always include at least one from each New England state that borders coastal waters and at least one from a Canadian Maritime province. Nominations shall be submitted in writing to the Secretary of the Board at least forty-five (45) days prior to the meeting at which the nomination or nominations will be considered. Election of nominees to the Board of Directors shall be by majority vote of all Directors.

- c. For the purpose of naming the initial Board of Directors, the Directors of the Sea Grant Programs of Connecticut, Maine, Massachusetts, New Hampshire, New York, and Rhode Island may collectively appoint seven (7) Directors, who shall represent a cross-section of marine-related industries, marine-related governmental organizations, marine-related non-profit organizations, and other users of ocean data and data products. If the Directors of the Sea Grant Programs fail to appoint one or more Directors within one hundred eighty (180) days of the date of adoption of these Bylaws, those positions shall remain vacant until the next Annual Meeting of the Corporation.

~~After the initial appointment of the Board of Directors, the Directors of the Sea Grant Programs of the states named above shall be invited collectively to nominate representatives to fill expired terms or vacancies of these seven (7) seats on the Board of Directors consistent with the guidance in the preceding paragraph. Nominations shall be submitted in writing to the Secretary of the Board at least forty five (45) days in advance of the meeting at which the nomination or nominations will be considered. Election of nominees to the Board of Directors shall be by~~

~~majority vote of all Directors.~~

After the initial appointment of the Board of Directors, the Directors of the Sea Grant Programs of the states named above, members of the board, representatives of the business and nonprofit communities, and other users of ocean observations shall be invited to assist NERACOOS by suggesting names of representatives to fill the seven (7) seats on the Board of Directors that collectively represent across-section of marine-related industries, marine related governmental organizations, marine-related non-profit organizations, and other users of ocean data and data products. Recommendations shall be submitted in writing to the Secretary of the Board at least forty-five (45) days in advance of the meeting at which the nomination or nominations will be considered. Election of nominees to the Board of Directors shall be by majority vote of all Directors.

- d. The Nominations Committee may nominate up to four (4) additional Directors for their strategic skills, knowledge, geographic representation, or liaison with constituencies of importance to the success of the Corporation. Election of these nominees shall be by majority vote of all Directors.
- e. In all cases, the Nominations Committee may engage in discussions with each of the nominating entities to identify persons best qualified to fulfill needs of the Corporation. Notwithstanding that a Director has been nominated by a particular entity or is employed by a particular entity, that Director shall serve as an independent Director, shall not formally represent any other entity in an *ex officio* or other capacity, and shall owe duties of care, loyalty, and confidentiality to Corporation. The Nominations Committee shall submit nominations to the Board at least fifteen (15) days prior to the meeting at which the nomination or nominations will be considered.

Section 4. Non-Voting Directors. The Board of Directors may include non-voting representatives of government agencies in the United States and Canada who are otherwise barred by their agencies' rules from serving as a voting Director of a non-profit corporation and whose representation the Board of Directors deems to be important to the success of the Corporation.

Such representatives shall be nominated by the Nominations Committee, and election of the nominees shall be by a majority vote of all Directors.

Section 5. Interim Board of Directors. NERACOOS is incorporated with an interim Board of Directors who will serve until the first Annual Meeting, at which time they will be replaced by the initial Board of Directors in the manner described in this Section. Members of the interim Board of Directors may be appointed to the initial and ongoing Board of Directors.

Section 6. Terms of Office. Directors shall serve a term of three (3) years, provided, however, that the Board shall stagger the expiration dates of the terms of the initial Directors and succeeding Directors, so that the terms of approximately one-third of the Directors shall expire in any year. Each term shall begin immediately upon election. No Director shall serve more than two (2) consecutive full three-year terms as a Director unless that Director is elected as an officer, in which case the Director may serve no more than three (3) additional years as a Director.

Notwithstanding the preceding sentence, election to an unexpired term will not count for purposes of term limitation. Each Director shall serve until his or her successor shall take office or until such Director's death, written resignation, or removal in the manner hereinafter provided. Annually, the Nominations Committee shall evaluate the Directors' effectiveness and address unacceptable participation by any Director through recommendation to the Board for removal as per Section 8 of this

Article.

Section 7. Resignations. Any Director may resign at any time by giving written notice to the president of the Board of Directors. The resignation shall take effect at the time specified in the notice or, if no time is specified, upon delivery. Unless otherwise specified in such notice, the acceptance of the resignation shall not be necessary for it to become effective.

Section 8. Removal from Office. Any Director may be removed at a Special Meeting of the Board called expressly for such purpose, provided that a statement of such proposed action is contained in the Notice of Meeting. A two-thirds majority of all Directors shall be sufficient to remove any or all Directors, with or without cause. The Director who is subject to removal may vote on the motion to remove. Notwithstanding the foregoing, a Director shall be automatically removed if s/he is or has been adjudged mentally incompetent.

Section 9. Vacancies. Any vacancies occurring in the Board of Directors may be filled in the manner described in Section 3 for the unexpired portion of the three-year term.

Section 10. Quorum. ~~A majority of the Directors, not including non-voting Directors, shall constitute a quorum for the transaction of business at any meeting of the Board. Directors may not vote by proxy.~~ The number of directors attending a properly noticed board meeting shall constitute a quorum for the transaction of business at any meeting of the board. Directors may not vote by proxy.

Section 11. Alternate Board Members. Directors may request to have a designated alternate who may vote in the Director's place at meetings when the Director is not present. Stipulations regarding alternates are:

- a. Alternate will be designated by appointing/voting body in the same manner as the Director (Nominating Committee would review the request for an alternate).
- b. The Director and his/her alternate would have an identical term and there would be no presumption of succession.
- c. The Director and alternate will be expected to be equally informed and aware of NERACOOS Board activities and discussions.
- d. Only the Director, not the alternate, may serve in an officer position.
- e. Alternates are optional.

Section 12. Compensation. Directors and officers shall receive no compensation, either directly or indirectly, for performance of their duties as Directors or officers, respectively. Directors and officers may receive reimbursement for reasonable expenses as may be necessary from time to time. Directors and officers may be compensated by NERACOOS for professional services provided to NERACOOS in furtherance of its mission, per Section 501(c)(3) of the Internal Revenue Code and related regulations. Such compensation, on either a contract or salary basis, must be approved by the Board pursuant to state law governing nonprofit corporations.

Section 13. Annual and Regular Meetings. At the Annual Meeting of the Corporation, the Board of Directors shall elect officers and transact such other business as may properly come before the meeting, with notice as specified in Article III. Regular meetings of the Board of Directors shall be held at least three times during the fiscal year on such dates, at such times, and at such locations as the president of the Board shall determine. Notice of a regular meeting shall be given at least thirty (30) days prior to the

meeting. Minutes will be made available to the Directors by electronic or other means, as appropriate. Minutes of meetings may be available to the public, at the Board's discretion. The Board of the Directors may choose, at its discretion, to open all or portions of its meetings to the public.

Section 14. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the president of the Board or any two Directors. The person or persons authorized to call a Special Meeting of the Board of Directors may fix the manner and the place for holding any special meeting of the Board of Directors called by them, provided that at least ten (10) days' notice shall be required for any Special Meetings.

Section 15. Notice. Notice of the annual or any regular or special meeting shall be given by email or written notice delivered personally or mailed to each Director at such Director's address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, so addressed, with postage prepaid. Notice of a proposed action by the Board of Directors to adopt any instrument specified in the Bylaws shall be published and provided to all directors ten (10) days in advance, and a written record of the action of the Board shall be recorded in the minutes.

Section 16. Manner of Acting. Each director, with the exceptions otherwise noted in these Bylaws, shall be entitled to one vote upon any matter properly submitted to the Board. Unless otherwise specified in these Bylaws, any act or decision done or made by a majority vote of the directors present and eligible to vote at a meeting duly held in which a quorum is present shall be a binding act of the Board of Directors. Abstentions shall constitute presence of a director in determination of a quorum.

Section 17. Action Without a Meeting. Any action which might be taken at a meeting of the Board of Directors or of a committee may also be taken without a meeting if (a) all Directors or committee members are notified in writing of the action taken, (b) three quarters (75%) of the total number of Directors or of the committee members send written consents to the action taken or to be taken, at any time before or after the intended effective date of such action, and (c) the Secretary, committee chair, or his/her designee, receives no written objection to such action from a Director or committee member within forty-eight (48) hours of the notification to the Directors and committee members. Such notifications, consents, and objections shall be filed with the minutes of next Directors' meeting or committee meeting, and shall have the same effect as a regular meeting vote. For the purposes of this section, notifications, consents, and objections may be communicated by regular mail, personal delivery, fax, or electronic mail.

Section 18. Telephonic or Similar Communication. Any Director, or any member of a committee of NERACOOS, may participate in a meeting by means of a conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other and such participation in a meeting shall constitute presence in person at such meeting.

Section 19. Executive Committee of the Board. The Executive Committee of the Board of Directors shall consist of the president, the vice-president, the secretary and the treasurer serving as *ex officio* members, and such other members of the Board as may be appointed by the Board. The president or his/her designated member of the Executive Committee will chair the Executive Committee. The president or any two other members of the Executive Committee may call a meeting of the Executive Committee. The president or other persons calling the meeting shall give or cause to be given written notice to each member of the Executive Committee of the date, time, place, and purpose of the meeting at least two days before the scheduled meeting. A majority of the members of the Executive Committee shall constitute a quorum for the transaction of business at any meeting thereof. The Executive Committee shall act only in the intervals between meetings of the Board of Directors and shall, except to the extent otherwise provided herein or determined by the Board of Directors, have all the authority of the Board of

Directors other than to:

- a. amend the articles of incorporation;
- b. adopt a plan of merger or consolidation;
- c. sell or dispose of all or substantially all of the property and assets of NERACOOS;
- d. voluntarily dissolve NERACOOS or revoke such dissolution;
- e. amend the Bylaws of NERACOOS;
- f. fill vacancies as provided in these Bylaws;
- g. amend or repeal any resolution of the Board of Directors;
- h. award grants or contracts pursuant to Section 19, unless specifically authorized by the Board of Directors on a case-by-case basis; or
- i. hire or fire an Executive Director, if any; or
- j. adopt any instrument required by these Bylaws to be adopted by the Board of Directors

Subject to the aforesaid exceptions, any person dealing with NERACOOS shall be entitled to rely upon any act or authorization of any act by the Executive Committee to the same extent as an act or authorization of the Board of Directors. The Executive Committee may delegate authority to the Executive Director, if such a position is appointed, as needed for the operation of NERACOOS. The Executive Committee shall keep full and complete records of all meetings and actions. At each meeting of the Executive Committee all questions and business shall be determined by a majority vote of those present, or without a meeting by unanimous consent in writing. The designation herein of the Executive Committee and the delegation thereto of authority shall not operate to relieve the Board of Directors or any member thereon of any responsibility imposed by law.

Section 20. Chief Executive Officer. The Board of Directors may appoint an Executive Director who shall be the Chief Executive Officer of the Corporation, responsible for conducting business activities of the Corporation, and who shall not be a member of the Board.

Section 21. Additional Committees. The Board of Directors shall designate one or more Directors and such other persons as they may choose to form the following committees:

- a. Nominations Committee - The Nominations Committee shall work with the three nominating bodies specified in Article IV, Section 3, to identify their nominees to the Board of Directors, and recommend other nominees to the Board of Directors as specified in Article IV, Section 3. Nominations shall be submitted in writing to the Secretary of the Board at least fifteen (15) days prior to the meeting at which the nomination or nominations will be considered.
- b. Finance Committee - The Finance Committee shall review and monitor all financial statements and transactions of the association and report to the Board the financial status of the organization, and recommend a budget. The treasurer shall be an ex officio member of the Finance Committee.

The Board shall designate one or more Directors and such other persons as they may choose to form one or more additional committees, such as a personnel committee, which committee(s) shall act to advise and inform the Board of Directors. Each committee shall serve at the pleasure of the Board of Directors

and shall have such duties and responsibilities as designated by the Board of Directors in the resolution establishing it. Each committee shall be chaired by a director of NERACOOs. Meetings of additional committees shall be held at such time and place as shall be fixed by the chair of each respective committee. A majority of all the members of any committee shall constitute a quorum for the transaction of business, and the vote of a majority of all the members of the committee shall be the act of the committee. The procedures and manner of acting of the Executive Committee and of any additional committees shall be subject at all times to the directions of the Board of Directors.

Section 22. Rules. Robert's *Rules of Order* in its most recent edition at the date of its use shall be the parliamentary authority for all matters of procedures not specifically covered by these Bylaws or by other specific rules of procedure adopted by the Directors of NERACOOs. Notwithstanding the foregoing, the Board of Directors may resolve any procedural matter by the affirmative vote of a majority of Directors present in person. Further notwithstanding the foregoing, an affirmative vote on any substantive matter in question shall constitute the waiver of any procedural objection.

Section 23. Business Plan, Work Plans, Solicitation and Distribution of Funds.

- a. The Board shall adopt and make public a Business Plan for NERACOOs that details fiscal policies and contains annual and projected budgets. The Business Plan will be updated and revised at the Board's discretion.
- b. Based on the recommendations of the teams defined in Article VI and in the context of the Business Plan, the Board shall adopt and make public an Annual Work Plan for NERACOOs.
- c. The Board may request funds from a variety of sources to support the organization and activities of the organization consistent with the Business Plan and Annual Work Plan. The Board shall adopt and make public procedures by which it approves both the intent to submit and the submission of funding requests for the operation of NERACOOs. All funding requests shall follow these procedures unless specifically waived by the Board.
- d. The Board shall adopt and make public requests for proposals based on the Business and Annual Work Plans and within the framework of available funds. Directors may not lead or participate in proposals except as permitted by the conflict of interest policy.
- e. Decisions on the award of funds to support proposals requested by NERACOOs shall be based on a merit system in the context of NERACOOs' goals.
- f. ~~Prior to the release of the first request for proposals, the Board shall adopt and make public a conflict of interest policy and make public procedures and criteria for proposal review that are based on merit and include independent and anonymous peer review. These procedures shall be followed for all RFPs released by NERACOOs.~~
- f. The corporation has a defined Request for Proposals process that includes procedures for dissemination, collection, review and selection. This process shall also ensure compliance with NERACOOs conflict of interest policies by all parties involved.

**ARTICLE V**  
**OFFICERS**

Section 1. Officers. The officers of NERACOOs shall be elected from the Board of Directors and shall be a president, a vice-president, a secretary and a treasurer. In addition, the Board of Directors may appoint such other officers as the Board may determine, with such duties and responsibilities as

determined by the Board. No officer shall execute, acknowledge, or verify any instrument in more than one capacity if the instrument is required to be executed, acknowledged, or verified by two or more officers.

Section 2. Election and Term of Office. The Board of Directors shall elect the initial slate of officers at the first organizational meeting. Thereafter, the officers of NERACOOS shall be elected annually by the Board of Directors immediately following the election of Directors at the Annual Meeting. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as is practicable. Each officer shall hold office for two years or until his or her successor shall take office or until such officer's death, written resignation, or removal in the manner hereinafter provided.

Section 3. Removal. Any officer may be removed by two-thirds vote of the full Board of Directors then serving in office whenever in their judgment the best interests of NERACOOS will be served thereby. Election or appointment of any officers shall not of itself create contract rights. An officer of the Board who is subject to removal may vote on the motion to remove.

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled at any meeting of the Board of Directors in the manner prescribed in these Bylaws for election or appointment to the office. Such vacancy shall be filled for the unexpired portion of the term.

Section 5. President and Vice-President. The president shall be the principal officer of NERACOOS. The president shall preside at all meetings of the Board of Directors. The president shall execute, on behalf of NERACOOS, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of NERACOOS, or shall be required by law to be otherwise signed or executed.

The president shall do and perform all duties incident to the office of president and other duties as may be assigned to the president by these Bylaws or by the Board of Directors. In the absence of the president, the vice-president shall perform all duties and responsibilities of the president.

Section 6. Secretary. The secretary shall keep or cause to be kept the minutes of the proceedings of the Board of Directors in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law, be custodian of the corporate records and of the seal of NERACOOS, keep a record of the mailing address of each Director which shall be furnished to the secretary by such Director and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the secretary by the president or by the Board of Directors. In the event the secretary shall be absent from any meeting of the Board of Directors, the Board of Directors in attendance at the meeting shall select a secretary *pro tempore*. The minutes of each meeting shall be made available, either by electronic or physical means, to the Board within thirty (30) days after the Board meeting.

Section 7. Treasurer. The treasurer shall have charge and custody of and be responsible for all funds and securities of NERACOOS, receive and give receipts for money due and payable to NERACOOS from any source whatsoever, and deposit all such monies in the name of NERACOOS in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of Article VII of these Bylaws, and in general perform or cause to be performed all of the duties incident to the office of treasurer, and with the approval of the Board of Directors may delegate any of these duties to the Executive Director or such other person as the Board may approve. The treasurer shall keep or cause

to be kept, under the treasurer's supervision, accurate financial accounts and shall hold the same open for inspection and examination by the Board of Directors, and shall prepare or cause to be prepared a full report concerning the finances of NERACOOS to be presented annually to the Board of Directors.

Section 8. Indemnification. Each Director, officer, committee member and employee of NERACOOS shall be indemnified by NERACOOS against expenses, including attorney's fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by such person in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of NERACOOS), by reason of the fact that such person is or was a Director, officer, committee member or employee of NERACOOS, or is or was serving at the request of NERACOOS as a Director, officer, trustee, agent or employee of another corporation, partnership, joint venture, trust or other enterprise, if such person acted in good faith and in a manner reasonably believed to be in the best interests of NERACOOS, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of *nolo contendere*, or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner which is reasonably believed to be in the best interests of NERACOOS, and, with respect to any criminal action or proceeding, that such person had reasonable cause to believe that such person's conduct was unlawful.

NERACOOS shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, committee member or employee or is or was serving at the request of NERACOOS as a Director, officer, trustee, agent or employee of the another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against and incurred in any such capacity, or arising out of his or her status as such, whether or not NERACOOS has indemnified such person hereunder.

Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by NERACOOS in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the manner provided by the applicable statutes of the State of Maine concerning indemnification by non-profit corporations currently contained in 13-B M.R.S. §714, upon the receipt of an undertaking by or on behalf of the Director, officer or employee to repay such amount, unless it shall be ultimately determined that such person is entitled to be indemnified as provided herein.

In the event that such action or proceeding be by or in the right of NERACOOS, NERACOOS shall have the same power to indemnify and insure any such Director, officer or employee, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of such duty, unless the court wherein the action or proceeding is tried shall specifically find that despite the adjudication of liability, but in view of all the circumstances of the case, such a person is fairly and reasonably entitled to indemnity.

The indemnification provided by these Bylaws shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute or regulation of the State of Maine. As used in this provision, the terms "Director", "officer", "committee member", "trustee", "agent", "employee" include the respective heirs, executors and administrators of persons holding such offices in NERACOOS.

## **ARTICLE VI**

### **TEAMS**

Section 1. Teams. In the development of the Business Plan and Annual Work Plan, the Board of Directors shall be advised by teams or working groups consisting of a diversity of stakeholders primarily from throughout the region. These teams, the number and make up of which will be determined at the discretion of the Board, will assist with the following:

- a. Identifying the data and product needs of users of ocean observations and predictions;
- b. Defining the data management, integration, and communications requirements to achieve the desired products;
- c. Prioritizing among products and data management and communications needs;
- d. Identifying requirements for maintaining existing capacities for ocean observing and modeling in the Northeast;
- e. Identifying ocean observing and modeling capacities needed to address the priority needs of users;
- f. Identifying the best methods to address the needs; and
- g. Prioritizing the methods based on achievability, effectiveness, and costs.

Section 2. Stakeholders' Council. The Board of Directors shall engage a Stakeholders' Council that is responsible for education and outreach to users of ocean observing data and data products and for providing input to the Board of Directors concerning the needs of users and the usefulness of existing ocean observations and products. To the greatest extent practicable, appointees shall be representative of the sub-regions of the Northeast and shall be representative of the diversity of stakeholder groups served by NERACOOS.

## **ARTICLE VII BOOKS AND RECORDS**

Section 1. Books and Records. There shall be kept at the principal office of NERACOOS the following:

- a. Correct and complete books and records of account;
- b. Minutes of the proceedings of the Board of Directors and the Executive Committee;
- c. A current list of the Directors and officers of NERACOOS and their current addresses;
- d. A copy of these Bylaws.

Section 2. Audit. The Board of Directors shall cause an audit of the books and records of NERACOOS to be conducted on an annual basis by an independent firm of certified public accountants.

## **ARTICLE VIII CONTRACTS, LOANS, CHECKS AND DEPOSITS**

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of NERACOOS, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted on behalf of NERACOOS and no evidence of

indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 3. Checks, Drafts, or other Similar Orders. All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of NERACOOS shall be signed by such officer or officers, agent or agents of NERACOOS and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. Assignment and Transfer of Stocks, Bonds and Other Securities. The Board or its designee shall have power to assign, or to endorse for transfer, under the corporate seal, and to deliver any stock, bonds, subscription rights, or other securities, or any beneficial interest herein, held or owned by NERACOOS.

## **ARTICLE IX** **GENERAL PROVISIONS**

Section 1. Fiscal Year. The fiscal year of NERACOOS shall end on September 30.

Section 2. Waiver of Notice. Whenever any notice is required to be given to any person under the provisions of these Bylaws or under the provisions of applicable law, a waiver thereof in writing signed before or after the time therein, shall be deemed equivalent to the giving of such notice. The attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when a person attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in any written waiver of notice of such meeting, except as otherwise provided wherein.

Section 3. Annual Report. The Board of Directors shall direct the president and the treasurer to present to the Board an annual report certified by an independent public accounting firm selected by the Board and showing in appropriate detail the following:

- a. The assets and liabilities, including the trust funds, of NERACOOS as of the end of the fiscal year immediately preceding the date of the report;
- b. The principal changes in assets and liabilities, including trust funds, during the fiscal year immediately preceding the date of the report;
- c. The revenue or receipts of NERACOOS, both unrestricted and restricted to particular purpose, for the fiscal year immediately preceding the date of the report;
- d. The expense or disbursement of NERACOOS, both for general and restricted purposes, during the fiscal year immediately preceding the date of the report.

This report shall be filed with the minutes of the meetings of the Board of Directors.

~~Section 4. Conflict of Interest. The Board shall adopt and make public a conflict of interest policy by resolution. The policy shall address both actual and perceived conflicts of interest throughout the organization. The policy shall include, but not necessarily be limited, to a requirement for the Board of Directors, officers, employees, and committee and team members to at least annually disclose any situation involving actual or potential conflicts of interest; and a prohibition against any individual or institution submitting a proposal to NERACOOS also being involved in the review or decision making~~

~~regarding the proposal or other proposals associated with the same request for proposals.~~

Section 4. Conflict of Interest. Directors, officers and employees of NERACOOS have an obligation to carry out their responsibilities within guidelines that minimize and make transparent actual or potential conflicts of interest. The Board of Directors adopted a conflict of interest policy that establishes an ethical framework of transparency within which the Corporation wishes to conduct its affairs. The purpose of this conflict of interest policy is to provide specific direction so that directors, officers and employees will be aware of and comply with their obligations. Directors, officers and employees shall comply with the adopted conflict of interest policy.

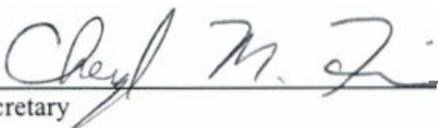
Section 5. Loans to Directors and Officers. No loans shall be made by NERACOOS to its Directors or officers, or to any other corporation, firm, association, or other entity in which one or more of its Directors or officers are Directors or officers or hold a financial interest.

**ARTICLE X**  
**AMENDMENTS**

These By-Laws may be altered, amended, or repealed and new By-Laws may be adopted by two thirds vote of the full number of the Directors then serving in office at any meeting of the Board of Directors, provided that the text of any such proposed amendment shall have been forwarded to each Director thirty (30) days prior to the required notice of meeting at which such proposed amendment may be submitted by vote. The provisions for notice to Directors of any proposed amendment may not be waived. All amendments shall be consistent with the provisions of the laws of the State of Maine and Section 501(c)(3) of the Internal Revenue Code and related regulations.

**CERTIFICATION**

These By-laws were approved unanimously at a meeting of the Board of Directors on November 13, 2008.

  
Secretary \_\_\_\_\_ Date 9-29-09

**The Northeastern Regional Association  
of Coastal Ocean Observing Systems (NERACOOS)  
Board Resolution 2009 - 01  
Adopted by the Board of Directors December 2009**

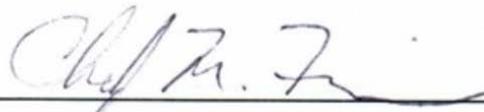
---

**By-Laws Amendment I**

**The Board of Directors amends Article IV, Section 3, Item (c) of the NERACOOS By-Laws to read as follows:**

*"After the initial appointment of the Board of Directors, the Directors of the Sea Grant Programs of the states named above, members of the board, representatives of the business and nonprofit communities, and other users of ocean observations shall be invited to assist NERACOOS by suggesting names of representatives to fill the seven (7) seats on the Board of Directors that collectively represent a cross-section of marine-related industries, marine-related governmental organizations, marine-related non-profit organizations, and other users of ocean data and data products. Recommendations shall be submitted in writing to the Secretary of the Board at least 45 days in advance of the meeting at which the nomination or nominations will be considered. Election of nominees to the Board of Directors shall be by majority vote of all Directors."*

**(This amendment allows for members of the board, representatives of the business and nonprofit communities, and other users of ocean observations to suggest names of representatives to fill vacant seats of the Board of Directors)**

  
\_\_\_\_\_  
Cheryl Zimmerman, Secretary

1-14-2010  
Date

**The Northeastern Regional Association  
of Coastal Ocean Observing Systems (NERACOOS)  
Board Resolution 2015-01  
Adopted by the Board of Directors February 2015**

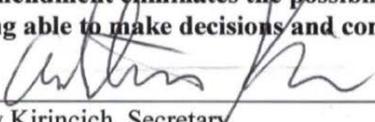
---

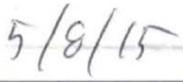
**By-Laws Amendment II**

**The Board of Directors amends Article IV, Section 10 of the NERACOOS By-Laws to read as follows:**

*"The number of directors attending a properly noticed board meeting shall constitute a quorum for the transaction of business at any meeting of the board. Directors may not vote by proxy. "*

**(This amendment eliminates the possibility of not having a quorum and the impacts associated with not being able to make decisions and conduct business)**

  
\_\_\_\_\_  
Anthony Kirincich, Secretary

  
\_\_\_\_\_  
Date

**The Northeastern Regional Association of Coastal Ocean Observing Systems (NERACOOS)**  
**Board Resolution 2017-1**  
**Adopted by the Board of Directors August 23, 2017**

---

**By-Laws Amendment III – two parts amended**

- 1.) The Board of Directors amends Article IV, section 23, part f of the NERACOOS By-Laws to replace the existing text with the following:**

EXISTING (to be deleted and replaced)

f. Prior to the release of the first request for proposals, the Board shall adopt and make public a conflict of interest policy and make public procedures and criteria for proposal review that are based on merit and include independent and anonymous peer review. These procedures shall be followed for all RFPs released by NERACOOS.

PROPOSED

f. The corporation has a defined Request for Proposals process that includes procedures for dissemination, collection, review and selection. This process shall also ensure compliance with NERACOOS conflict of interest policies by all parties involved.

- 2.) The Board of Directors amends Article IX, section 4 of the NERACOOS By-Laws to replace the existing text with the following:**

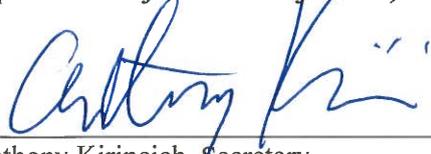
EXISTING (to be deleted and replaced)

Section 4. Conflict of Interest. The Board shall adopt and make public a conflict of interest policy by resolution. The policy shall address both actual and perceived conflicts of interest throughout the organization. The policy shall include, but not necessarily be limited, to a requirement for the Board of Directors, officers, employees, and committee and team members to at least annually disclose any situation involving actual or potential conflicts of interest; and a prohibition against any individual or institution submitting a proposal to NERACOOS also being involved in the review or decision-making regarding the proposal or other proposals associated with the same request for proposals.

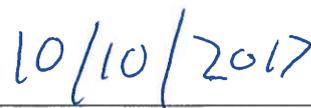
PROPOSED

Section 4. Conflict of Interest. Directors, officers and employees of NERACOOS have an obligation to carry out their responsibilities within guidelines that minimize and make transparent actual or potential conflicts of interest. The Board of Directors adopted a conflict of interest policy that establishes an ethical framework of transparency within which the Corporation wishes to conduct its affairs. The purpose of this conflict of interest policy is to provide specific direction so that directors, officers and employees will be aware of and comply with their obligations. Directors, officers and employees shall comply with the adopted conflict of interest policy.

*(These amendments reference the existing, approved Conflict of Interest Policy; and meet the requirements of IOOS Certification)*



Anthony Kirincich, Secretary



Date