



**Structure and Operating Procedures for the
New York – New Jersey Harbor & Estuary Program**
(Approved January 7, 2016)

Background and Overview

At the request of the governors of New York and New Jersey, the New York-New Jersey Harbor & Estuary Program (HEP) was accepted by the U.S. Environmental Protection Agency (EPA) into the National Estuary Program in 1988. HEP is an ongoing effort to develop and implement a plan to protect, conserve and restore the estuary. It “provides a forum to develop and implement actions that improve the health of the Estuary by convening a partnership of interested stakeholders, utilizing sound science to analyze the issues, and working to carry out recommendations that are environmentally and economically responsible.” While the core funding for all National Estuary Programs is provided by Section 320 of the Clean Water Act and administered by EPA, HEP decisions and activities are carried out by staff and partners organized through the committees and work groups convened by the Program.

The geographic scope of the Program is the tidal waters of the New York – New Jersey Harbor Estuary, focusing on a core area from the Tappan Zee Bridge south to the Sandy Hook – Far Rockaway transect, including the waters of Jamaica Bay, Raritan Bay, Newark Bay, the East River and the tidal tributaries that feed into these water bodies. In 2011, HEP updated its geographic footprint to include the Hudson River watershed up to the Troy Dam, as well as the watersheds of the Raritan, Passaic, and Hackensack Rivers in New Jersey. While HEP’s core waters will continue to be a focus, this expanded watershed approach will enable HEP to better address certain management goals.

The Comprehensive Conservation and Management Plan (CCMP) was approved by the EPA Administrator, with the concurrence of the governors of New Jersey and New York in 1997. The CCMP outlines a comprehensive strategy to achieve HEP’s overall goal of establishing and maintaining a healthy and productive ecosystem with full beneficial uses (<http://harborestuary.org/about-planningdocs.htm>). In 2008 HEP created an Action Plan to facilitate implementation of the CCMP by focusing on a sub-set of objectives; The Action Plan was updated in 2011 (http://harborestuary.org/reports/HEP_Action_Plan-042711.pdf).

The CCMP established a management conference structure consisting of a Policy Committee, a working Management Committee, Citizens Advisory and Science and Technical Advisory Committees, and technical work groups. In 2014, the Hudson River Foundation was chosen by EPA to manage the Program. The Program Director and other staff employed by the Hudson River Foundation (Foundation) are charged with managing the Program under the direction provided by the Policy and Management Committees consistent with national guidance provided by EPA.

The Action Plan is a “living document” meant to be reviewed and updated often to reflect new information, evolving priorities, and progress on recommended actions. Such revisions, to be completed at least every five years, provide an opportunity for the partnering agencies, civic, and other stakeholders to renew their overall agreement and to ensure the Management Conference has the right mission and member composition. The current Action Plan cover the years 2011 – 2015. According to EPA National Estuary Program FY 2015 and FY 2016 Clean Water Act §320

Funding guidance, a revised CCMP should be completed by 2018 for those programs that have never updated their CCMP. HEP will launch an update of the Action Plan (for the years 2016-2020) and a revision of the CCMP in Winter 2016 with a series of public listening sessions and discussions.

Annual work plans and budgets define specific tasks and finances for each year, and form the basis of the Assistance Agreement with EPA for Section 320 funding authorized under the Clean Water Act, required matching funds provided by the Hudson River Fund grants, as well as other public or private funding sought by the Foundation or HEP Partners on behalf of HEP.

Policy Committee

Membership on the Policy Committee is composed of representatives from the US Environmental Protection Agency (EPA), New Jersey Department of Environmental Protection (NJDEP), New York State Department of Environmental Conservation (NYSDEC), US Army Corps of Engineers (ACOE), the Port Authority of New York & New Jersey (PANY/NJ), New York City Department of Environmental Protection (NYCDEP), and a representative of local government in New Jersey (LGNJ), the Citizens Advisory Committee (CAC); the Science and Technical Advisory Committee (STAC), and the host entity (currently and referred to hereafter as the Hudson River Foundation or Foundation)^{i ii}

The Policy Committee is responsible for approval of HEP goals, objectives, near term priorities, and direction as established in the CCMP, five year Action Plans, and other planning documents.

The Policy Committee reviews Management Committee recommendations, and approves resource and funding allocations through the annual work plans and budgets. It approves and modifies Operating Procedures. It approves membership to the Policy Committee and the Management Committee as detailed below. As needed, it can create committees and work groups in addition to the two committees established by the CCMP (the CAC and STAC).

The EPA selects the host entity (currently and hereafter referred to as the Hudson River Foundation) in consultation with the Policy Committee. EPA will periodically evaluate host entity performance in consultation with the Policy Committee.

The Policy Committee works with the Foundation to select the Program Director in accordance with the Foundation's personnel policies and procedures. The Policy Committee assists the Foundation in the evaluation of the performance of the Program Director. The Foundation will seek input from each Policy Committee member or their representative annually on the Program Director's performance.

Other responsibilities include:

- Evaluate the HEP effectiveness periodically;
- Promote HEP to local, statewide and national audiences and help communicate HEP goals, objectives, and near term priorities;
- Assist in identifying long-term funding for implementation of the CCMP;
- Seek to ensure near-term financial and other commitments by partners for implementation of HEP Action Plan priorities;
- Individually, the Policy Committee members will act on their agency or organization's behalf to render substantive and appropriate support for implementation of the CCMP and Action Plan.

It is anticipated that members of the Policy Committee reaffirm their organizational and individual commitment to HEP and the Management Conference through the creation of each new five-year Action Plan. Preparation of the next Action Plan will start in 2016.

Members of the Policy Committee are selected as follows:

- The executive of each of the following agencies: US Environmental Protection Agency – Region 2, New Jersey Department of Environmental Protection, New York State Department of Environmental Conservation, US Army Corps of Engineers - NY District , and the Port Authority of New York & New Jersey;
- The Commissioner of the New York City Department of Environmental Protection and a representative of New Jersey local government nominated by the Management Committee and approved by the Policy Committee. Candidates for the New Jersey local government representative will be identified in consultation with the New Jersey League of Municipalities, the New Jersey Urban Mayors Conference, and the New Jersey Department of Environmental Protection;
- The Committee approves a representative of the STAC and a representative of the CAC upon the nomination by the chairs of those committees and the Management Committee;
- The Committee approves the representative of the Hudson River Foundation upon the nomination of the Foundation. The Foundation representative chairs the Policy Committee.

Members or their designated alternates must participate in meetings during the calendar year to ensure balanced discussion and decision-making among parties. If members do not participate in meetings, the Policy Committee will determine actions to increase participation by the member entity, or consider replacement.

The Policy Committee operates by consensus. If, after extensive discussion, the Policy Committee cannot reach consensus on an issue, the Committee may take a vote. Motions require a two-thirds majority vote of those participating for passage. Meetings will be calendared and members notified at least 30 days prior to the meeting. Committee decisions and votes may be taken if at least half of the members are present or otherwise able to participate in a timely manner. Actions taken by the Policy Committee cannot infringe on the statutory responsibilities of the public agencies in the Management Conference.

The Policy Committee meets at least twice a year and preferably quarterly.

Management Committee

The Management Committee includes representatives from the seven public agencies on the Policy Committee (US Environmental Protection Agency, New Jersey Department of Environmental Protection, New York State Department of Environmental Conservation, US Army Corps of Engineers, New York City and New Jersey local government, and the Port Authority of New York and New Jersey); the co-chairs of the STAC and the CAC; chairs of active work groups; representatives of other involved government agencies including NOAA, Department of Interior, New Jersey Harbor Dischargers Group, Interstate Environmental Commission, New York State Department of State, educational institutions in New York and New Jersey; representatives of environmental justice interests in New York and New Jersey; and the HEP Program Director. ⁱⁱⁱ

The Management Committee works with HEP staff to manage Program activities on behalf of the Policy Committee. The Management Committee helps identify and define the challenges and opportunities facing the Estuary and develops and implements appropriate management strategies. The Committee reviews annual work plans and budget proposals and recommends resource and funding allocations for Policy Committee approval each year. It creates work groups to address issues. Members of the Committee shall lead or actively take part in the activities of HEP and its committees and work groups, and the chairs of active committees and work groups shall be members of the Management Committee.

Other responsibilities include:

- Evaluate the HEP effectiveness periodically;
- Promote HEP to local, statewide and national audiences and help communicate HEP goals, objectives, and near term priorities;
- Assist in identifying long-term funding for implementation of the CCMP;
- Seek to ensure near-term financial and other commitments by partners for implementation of HEP Action Plan priorities;
- Individually, Management Committee members will act on their agency or organization's behalf to render substantive and appropriate support for implementation of the CCMP and Action Plan.

It is anticipated that members of the Management Committee reaffirm their organizational and individual commitment to HEP and the Management Conference through the creation of a new Action Plan. Preparation of the next Action Plan will start in 2016.

Members of the management committee are selected as follows:

- The seven public agencies on the Policy Committee appoint their own representatives;
- CAC Co-Chairs from NY and NJ are voted in an open process by the CAC membership according to the CAC by-laws;
- STAC Co-Chairs from NY and NJ, educational representatives from NY and NJ, the representatives of environmental justice interests, representatives of other involved government agencies, and the chairs of active work groups are approved by the other members of the Management Committee following nomination by the Program Director or another member or members of the Committee;
- The HEP Program Director is ex-officio and chair of the Committee.

The Management Committee operates by consensus. If, after extensive discussion, the Management Committee cannot reach consensus on an issue, the Committee may take a vote. Motions require a two-thirds majority vote of those participating for passage. Meetings will be calendared and members notified at least 30 days prior to the meeting. Committee decisions and votes may be taken if at least half of the members are present or otherwise able to participate in a timely manner after being contacted. Actions taken by the Management Committee cannot infringe on the statutory responsibilities of the public agencies in the Management Conference.

The Management Committee meets at least quarterly, although members are expected to engage on a regular basis with HEP partners and staff including committee and work groups meetings. Members must participate in meetings during the calendar year to ensure balanced discussion and decision-making among parties. If members do not participate in at least of three of four meetings, the Management Committee will determine actions to increase participation by the member entity, or consider replacement.

Committees and Work Groups

The CCMP establishes two standing committees: the STAC and CAC. Additional committees or work groups can be created by the Policy or Management Committee as needed.

HEP standing committees and work groups may establish operating procedures or by-laws, subject to review and approval by the Policy or Management Committee as appropriate. Any such procedures or by-laws shall include at minimum the committee purpose and functions, number and criteria for membership, role of leadership and HEP staff support, terms and appointment procedures, and decision making processes. If there are no operating procedures or by-laws, work group or committee chairs are to be recommended by the work group or committee members and HEP staff and approved by the Management Committee. The position of chair should be revisited by the committees or work group every two years.

The **Citizens Advisory Committee (CAC)** provides guidance and advice to the Management Committee and Policy Committee on Program decision making; assists the Management Committee in developing and implementing the CCMP and Action Plan; and promotes public awareness and understanding of the Program's issues, goals, and recommendations in keeping with the CCMP and Action Plan. Chairs are elected by the Committee membership. The CAC holds two seats on the Management Committee and has one representative to the Policy Committee. The CAC has by-laws guiding the group's procedures.

The **Science and Technical Advisory Committee (STAC)** is charged with ensuring that science is appropriately incorporated into planning and implementation activities of the Program. There are two co-chairs, one representing NY and one representing NJ, who have the power to convene meetings. These are done on an as needed basis as requested by the Policy or Management Committee, or upon initiative of the STAC Chairs in cooperation with HEP Program Staff. Chairs are selected by the Management Committee following nomination by the Program Director or Management Committee members. The co-chairs sit on the Management Committee and have a representative to the Policy Committee. The STAC does not currently have by-laws guiding the group's procedures.

Technical Work Groups are authorized by the Management Committee and are in charge of specific issues affecting the Estuary such as habitat protection and restoration, water quality management, sediment management, and public access. Currently, there are two active work groups: the Public Access Work Group and the Restoration Work Group (RWG). The RWG has two active subcommittees: the Harbor Herons subcommittee and the RWG Oyster Restoration sub-committee. The Restoration Work Group has by-laws approved by the Management Committee.

Program Office and Program Staff

The HEP Program Office is located at the Hudson River Foundation. The Foundation was selected by EPA with input from the Policy Committee members to administer the Program and receive the federal assistance agreement under Clean Water Act Section 320 that supports the activities of HEP. The Foundation is responsible for complying with terms and conditions of the assistance agreement made with EPA.

Specific responsibilities include:

- Track and provide an accounting of all received EPA or other contracts and grants, and comply with all grant requirements;
- Hiring the Program Director and staff, as identified in and contingent on approval of annual work plan and budgets;
- Provide office space and support services for staff, contingent upon funding, including temporary interns and consultants, photocopying and graphic arts; building utilities; and communications support (mail, telephone, fax, e-mail, internet connection, and web support);
- Allocate grants and secure contractual services as identified in, and contingent on approval of, annual work plan and budgets;
- Identifying and securing additional support for the Program, including the required match to Section 320 federal funding.

The Program Director, assisted by staff, directs and manages all aspects of HEP on a daily basis. The Program Director takes guidance and direction from and is accountable to the Policy and Management Committees and supervises staff in the HEP office. Day to day supervision of the HEP office is the responsibility of the Executive Director of the Hudson River Foundation.

Specific roles of the Program Director include, but are not limited to, the following actions:

- Provide overall coordination and management of Section 320 grant funding in compliance with EPA regulations and NEP National Guidance;

- On an annual basis, develop work plan and budget to support implementation of the CCMP and action plan;
- On behalf of the Foundation, submit the annual grant application to EPA and submit Government Performance Results Act and other end-of year reports to EPA as required;
- Seek and submit additional grant applications and otherwise pursue, in compliance with EPA regulations, funding required by the office and the implementation of the CCMP and Action Plan;
- In consultation with the Hudson River Foundation, hire and supervise staff as identified in approved annual work plan and budgets;
- In accordance with the Hudson River Foundation and EPA approved policies and procedures, procure services and materials in keeping with approved annual work plan and budgets;
- Organize, prepare agenda, and produce minutes for the Policy and Management Committee meetings in cooperation with its members;
- Chair the Management Committee;
- Assist the CAC and other committees and workgroups with their meetings as required;
- Oversee creation, revisions, amendments, and adoption of the CCMP, action plan, and other HEP documents in consultation with the management conference and as specified in the annual work plan and budget;
- Communicate and consult with the Management Conference to facilitate implementation of the CCMP and Action Plan and to resolve obstacles which would impede progress;
- Develop and update agreements among specific HEP partners to ensure support and implementation;
- Work with other agencies and organizations to facilitate integration of appropriate portions of the CCMP and/or Action Plan into appropriate actions of each agency or organization;
- Provide public forums for public participation and education;
- Serve as an advocate for the New York-New Jersey Harbor & Estuary and the goals and implementation of the CCMP and Action Plan.

ⁱ History: When the Policy Committee was established under the State/EPA Conference Agreement in 1989, membership consisted of the EPA Regional Administrator, the Commissioner of the NJDEP, and the Commissioner of the NYS DEC. The Chair of the Policy Committee has traditionally been the regional administrator of EPA. In March 1991, the PC added as non-voting members an advocate representing views of the HEP Citizens and Science and Technical Advisory Committees, the Commissioner of the New York City Department of Environmental Protection, and a representative of New Jersey local government. The memo noted that, "The designees of the EPA Administrator and the Governors of New York and New Jersey should be the only voting members of the PC because they are responsible for the approval of the Comprehensive Conservation and Management Plan (CCMP) pursuant to Section 320 (f)(1) of the Clean Water Act of 1987." A subsequent PC resolution in 1993 resolved that the Division Commander, North Atlantic Division, U.S. Army Corps of Engineers (Corps), would become a member of the PC and that the EPA vote shall be exercised in consultation with the Corps. In 2005, the Port Authority of NY & NJ was added as non-voting member of the Policy Committee.

ⁱⁱ Policy Committee Members at the time of adoption of these Operating Procedures:

Chair, Judith A. Enck, USEPA
Colonel David A. Caldwell, USACE
Thomas M. Creamer, Alt., USACE
Marc Gerstman, NYSDEC (acting)
James Tierney, Alt, NYSDEC
Robert Martin, NJDEP
Kerry Kirk Pflugh, Alt., NJDEP
Christine Weydig, Port Authority of NY/NJ
J. Christian Bollwage, NJ Local Government
Angela Licata, NY Local Government
Charles S. Warren, CAC/STAC

ⁱⁱⁱ Management Committee members at the time of adoption of these Operating Procedures:

Chair, Robert Pirani, HEP/HRF
Rick Balla, USEPA
Douglas Adamo, USDOJ
Vacant, USACE
Karen Greene, NOAA
Jeff Myers, NYSDEC
Vacant, NYSDOS
Clay Sherman, NJDEP
Bridget McKenna, NJHDG
Pinar Balci, NY Local Govt (NYCDEP)
Gabriel Rodriguez, NJ Local Govt
Evelyn Powers, IEC
Bernice Malione, Port Authority of NY/NJ
Meredith Comi, CAC (NJ)
Nellie Tsipoura, CAC (NJ)
Rob Buchanan, CAC (NY)
Shino Tanikawa, CAC (NY)
Judith Weis, STAC (NJ)
Dennis Suszkowski, STAC (NY)
Ann Fraioli, NY Education
Vacant, NJ Education