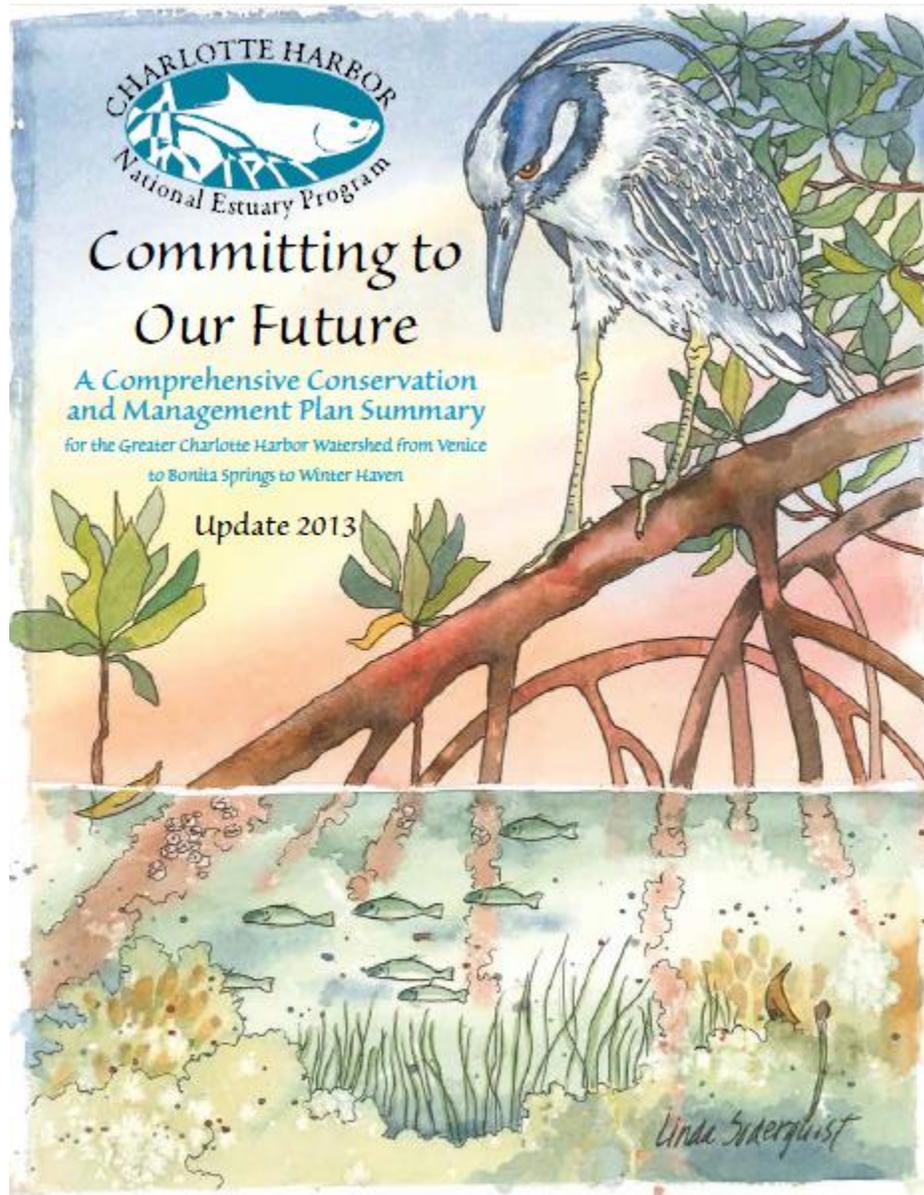


# POLICY REVIEW PROCEDURES



Adopted: May 31, 2018



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## Purpose

The purpose of this document is to outline the Charlotte Harbor National Estuary Program's (CHNEP) role in policy, and procedures to develop and transmit Charlotte Harbor National Estuary Program (CHNEP) policy positions.

## CHNEP Committees Respective Authorities with Regards to Policy

The CHNEP is composed of four committees and their subcommittees. The committees include Technical Advisory Committee (TAC), the Citizens Advisory Committee (CAC), Management Committee, and Policy Committee. The four committees are called the "Management Conference." Any member from any committee is called a "Conference member". The period of time for an item to be reviewed by all four committees is known as the "Conference Cycle." Three Conference Cycles are scheduled per year, approximately four months apart. The three cycles are supplemented with additional TAC, CAC, and subcommittee meetings as needed. The Committees meet sequentially starting with the TAC, then the CAC, then the Management and finally the Policy Committee.

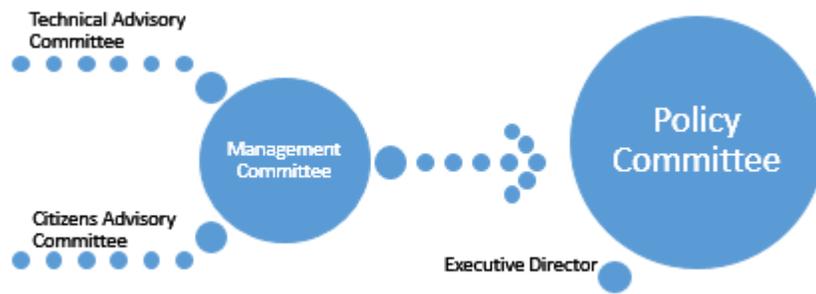


Figure 1: Illustration of Charlotte Harbor National Estuary Program Management Conference

The TAC is composed of scientists, planners, and engineers from the public and private sectors. The TAC specialty is providing technical input, findings and comments particularly for research, restoration, and policy development. The TAC provides a point of entry for technical and science-based comments and information.

The CAC includes citizens and agency public outreach specialists. Although their specialty is public involvement and education, the CAC provides input on policy that is forwarded to the Policy Committee. The CAC provides a point of entry for citizen-sourced comments and information.

The Management Committee is composed of resource managers. They have traditionally provided critical review of budgets and expenditures, as well as thorough review of organizational management decisions and documents. With regards to policy positions, the Management plays a critical role in determining whether consensus amongst the CHNEP member organizations exist on an issue. The input from the CAC and TAC is considered by the Management Committee. If there is no consensus at the Management Committee level on a policy matter, then it does not proceed to the Policy Committee for further consideration. If it

does proceed, the Management Committee incorporates the TAC and CAC input into their briefing to the Policy Committee.

The CHNEP Management Committee, Technical Advisory Committee (TAC) and Citizen Advisory Committee (CAC) members, acting as a CHNEP Advisory committee or as individual members representing the Management Committee, TAC or CAC, may provide input, but will not provide a recommended position to the other boards, nor support or oppose specific projects or permits. They also do not have the authority to publicly present any approved policy positions, either verbally or in writing, on behalf of the CHNEP.

The Policy Committee is composed of elected officials and agency heads, and has the final authority for making decisions on all policy positions held by the CHNEP. Input from the CAC, TAC, and Management Committee are considered in making their decisions. The Executive Director reports to the Policy Committee and is authorized by it to present approved policy positions, either verbally or in writing, on behalf of the CHNEP.

CHNEP staff will take significant items through the full conference whenever time allows. If the timing provides for a Policy Committee decision but not earlier committees, the Policy Committee may take up the issue without input from the other committees. For potentially controversial development or environmental permitting decisions, CHNEP staff can provide scientific and technical information and participate in technical discussion, but will not oppose or support specific development project or permits without prior approval of the Policy Committee.

The Executive Director is authorized to execute routine technical commenting consistent with the CCMP, as well as policy activities that do not relate to specific development projects or permits - such as educating policymakers about the value of the CHNEP program or assisting in obtaining funding or permits for resource protection and restoration projects the CHNEP is engaged in. Technical commenting, routine grant letters, commenting regarding funding consistent with CCMP, or commenting consistent with prior approved Policy Committee positions do not require Management Conference approval; though the advisement from the Technical Advisory Committee on technical commenting will be sought whenever feasible to do so.

# Appendix 1: History of CHNEP's Involvement in Policy

On March 19, 1999, the CHNEP Policy Committee adopted the Federal Consistency Report. As presented to the Policy Committee, the report includes a primary strategy and secondary process.

“The primary strategy is to encourage early coordination and review of projects for consistency with the CCMP before they get to the clearing house stage. Then the second step is to incorporate the existing federal consistency review process. The other highlight of the report is a list of potential federal assistance programs and development projects that would have a relationship with our CCMP action plans.”

The CCMP, adopted March 2000, added to the Federal Consistency Review procedures by stating that the CHNEP “will identify the types of federal activities and programs it wishes to review, will receive specific proposals within these categories (from the RPCs).”

On December 7, 2001, the CHNEP Policy Committee unanimously adopted the motion to “become a spokesman for the Harbor and the waterbodies in the natural system in the forums where decisions are being made and implementations are being undertaken.” Although special reference was made to Minimum Flows and Levels (MFL), Total Maximum Daily Loads (TMDL), the Comprehensive Everglades Restoration Plan (CERP) and its implications for the Caloosahatchee River, the overall goal was for “the CHNEP to assume the lead role in being the advocate for the Charlotte Harbor Ecosystem Complex and its watersheds.” The position further suggested that the Florida Department of Environmental Protection, the South Florida Water Management District, and the Southwest Florida Water Management District “look to the CHNEP for guidance in setting Goals for the CHNEP study area for their various programs currently underway.”

The objectives of the CHNEP's policy involvement have been:

- To implement the quantitative objectives and priority actions of the adopted *Comprehensive Conservation and Management Plan (CCMP)*,
- To provide policy-makers with a source of review and comment from an organization which represents the considered opinions of diverse interests, and
- To provide a voice for natural systems within the study area watersheds based on the best scientific information available.

On January 18, 2018, the Policy Committee discussed the CHNEP's role in advocacy and clarified the CHNEP Public Advocacy policy and the responsibilities of the Management, Technical Advisory and Citizen Advisory Committees in the process. The Policy Committee recognized that the CHNEP is known for providing decision-makers with the best available science and sound scientific data and research to make decisions and that this practice is continue. The Policy Committee passed the following motion to update the CHNEP Advocacy and Review Procedures:

For potentially controversial development or environmental permitting decisions, CHNEP staff can provide scientific and technical information and participate in technical discussion, but will not oppose or support specific development project or permits without approval of the Policy Committee. The CHNEP Management

Committee, Technical Advisory Committee (TAC) and Citizen Advisory Committee (CAC) members, acting as a CHNEP Advisory committee or as individual members representing the Management Committee, TAC or CAC, may provide conclusions, but will not provide a recommended position to the other boards, nor support or oppose specific projects or permits.

## **Primary Categories of CHNEP's Policy Activities**

### Environmental Land Acquisition and Conservation

Environmental land acquisition and conservation are positive activities and support CCMP Quantifiable Objective FW-1. Letters of support and testimony before land acquisition authorities have been normal activities of the CHNEP staff in support of FW-1.

Examples: In the autumn of 2001, a series of public hearings were conducted regarding the expansion of the "Ding" Darling National Wildlife Refuge (NWR). The NWR staff notified the CHNEP staff of the meetings. Separate CHNEP staff attended two of the hearings and provided testimony that the expansion was consistent with the CCMP.

### Water Quality Rules

Most water quality rules currently under consideration relate to Total Maximum Daily Loads (TMDL) rules. These rules in general include several components: the Impaired Waters Rule, the basin status reports, the verified list, the individual TMDL rules, and the individual implementation plans. The CHNEP has been very engaged through the years in commenting on water quality rules. Comments will be developed so that water quality of the NEP-area rivers, creeks, lakes, aquifers, and estuaries are protected.

Examples: On December 7, 2001, the Policy Committee recommended that FDEP make their TMDL study boundaries and work plan for the CHNEP coincident to the boundaries of the CHNEP and CHNEP participate in accomplishing this recommendation. In addition, CHNEP staff wrote a general letter regarding the Charlotte Harbor Basin Status Report. In April 2002, CHNEP wrote and sent a technical comment letter regarding the Myakka River TMDL. CHNEP staff also attended the July 25, 2002 public hearing on the Everglades West Coast Basin (including Estero Bay), as well as sent a comment letter.

### Hydrology rules

Rule development for hydrological issues such as minimum flows and levels (MFLs) and water reservations have also been issues the CHNEP has been engaged in. Comments have been developed so that the natural hydrologic regime of the NEP-area rivers, creeks, lakes, aquifers, and estuaries are protected.

Examples: In 2000, the CHNEP sent a comment letter to the SFWMD Governing Board on the draft Caloosahatchee River MFL rule. Over the next several months, the MFL rule was significantly modified due to outside agencies' comments. During this time, CHNEP staff compiled concerns from member agencies, including U.S. FWS, City of Sanibel, FWC, and U.S.EPA, and the SFWMD's Peer Review Panel and presented these as well as a draft letter incorporating the concerns to the Management and Policy Committees. In early September 2002, CHNEP staff also sent a letter to SFWMD staff requesting them to establish MFLs for these tributaries by the timetable set down in the CCMP.

#### Changes in structures specified in HA-4

Structures in HA-4 include the Sanibel Causeway, the Myakka River weir below Upper Myakka Lake, the crossing on Myakka River below Lower Myakka Lake, Down's Dam on Myakka River, the causeway between Lover's Key State Recreation Area and Bonita Beach, the water control structure at the south end of Lake Hancock, the structure on Coral Creek, and the Gator Slough canal collector system in Lee and Charlotte Counties. Comments have been developed so that the natural hydrologic regime of the NEP-area rivers, creeks, lakes, aquifers, and estuaries are protected.

Examples: CHNEP provided comment on SFWMD modeling the circulation patterns of lower Charlotte Harbor as it pertains to the causeway islands of the Sanibel Causeway and their impacts on living resources.

#### Projects that improve water quality

Projects that improve water quality are a frequent topic for CHNEP commenting. WQ-5 of the CCMP charges the program and its partners with restoring and then maintaining Class III water quality standards within Lake Hancock and to improve water quality of the water exiting the lake to a Trophic State Index of "good" by 2010. In addition, WQ-6 requests that we meet or exceed designated water quality standards by 2015. The CHNEP has commented on agency budgets that improve the water quality of the water within and leaving the lake and on the project design.

Examples: In April 2002, the CHNEP sent a supporting letter to the District Governing Board regarding a multi-year project to offset increases in nitrogen due to development over the next 10 to 20 years into Lake Hancock. CHNEP staff also participated in the Lake Hancock Advisory Committee and Technical Advisory Committee, and previously the program was very instrumental in obtaining support for lake improvement from the Florida legislature.

#### Projects affecting habitats listed in FW-2

The habitats listed in FW-2 include submerged aquatic vegetation, intertidal un-vegetated bottoms, mangrove, saltwater marsh, oyster bars, and freshwater wetlands and those uplands vital to the ecological function of the NEP study area. The CHNEP has commented on these including on agency budgets to restore, maintain and enhance one of these habitats, project design (especially at public workshops), and relevant rules.

Examples: In 2002, the CHNEP sent a letter of support for funding of a Florida Gulf Coast University oyster restoration project within the Caloosahatchee estuary to the National Fish and Wildlife Foundation.

#### Projects that significantly affect hydrology in sub-basins

HA-3 tasks the program and its partners to restore, enhance, and improve where practical historic subbasin boundaries and natural hydrology for basins within the Charlotte Harbor NEP study area, with special attention to Outstanding Florida Waters, Class I waterbodies, and tributaries to Estero Bay by the year 2020. In addition, the objective implies that new structures that negatively impact natural hydrologic conditions may be discouraged. The focus of this quantifiable objective is hydrologic projects, typically with governmental funding. It is consistent with the CCMP for the CHNEP to comment on agency budgets to restore, maintain, or enhance hydrology, project design (especially at public workshops), and relevant rules.

Examples: To date, the CHNEP has not provided comments on any specific project that restore hydrology. However, in 2016, it became the lead in facilitating the South Lee County Watershed Initiative to support the development of a project list and their implementation to restore hydrology in that area, as well as actively supporting the Charlotte Harbor Flatwoods and LeHigh Acres Watershed Initiatives.

### Rules which reduce propeller damage to seagrass beds

From time to time, State of Florida agencies entertain rules that may reduce propeller damage to seagrass beds. An example is the 9-12-2002 rule adoption by the Florida Fish and Wildlife Conservation Commission. Rule 68C-22.015, Charlotte County (and Part of DeSoto County) Zones, provided for low speeds zones in Lemon Bay (except for the Intracoastal Waterway and the marked channel at stump Pass at 25 mph) and idle speeds in the Southeast Entrance and the mid-bay area of Turtle Bay. The slower speeds protect manatees but also seagrasses from prop scars. It is consistent with the CCMP for the CHNEP to comment on agency budgets to restore, maintain, or enhance hydrology, project design (especially at public workshops), and relevant rules to protect seagrass as a critical aquatic resource, as well as habitat for the endangered manatee.

Examples: To date, the CHNEP has not provided comments on any rule that protect seagrasses.

### Projects that remove invasive exotic species

Commenting on the removal of invasive exotic species is consistent with the CHNEP CCMP.

Examples: The CHNEP staff has written letters in support of exotic removal funding. One example is the Frannie's Preserve Invasive Species Control project on Sanibel Island that sought funding from the National Fish and Wildlife Foundation.

### Legislation that restricts citizen participation on environmental issues

One of the core values of the CHNEP has been the importance of citizen participation in environmental policy development. When such legislation is brought to the attention of the CHNEP office, the legislation is reviewed to see whether consensus exists for commenting or the formation of a position on it.

Examples: One example that is currently being developed through the management conference is statutory exemptions for maintenance dredging. Statutory exemptions provide for no public review of proposed dredging, regardless of how long ago the original dredging took place.

## **Appendix 2: Procedures for Raising Policy Issues**

### Placing an Item on the Agenda

There are five ways in which an individual issue may be considered by the CHNEP that has not been addressed earlier in this document. They are:

1. A conference member requests it for consideration by CAC and TAC at the beginning of a conference cycle at least 2 weeks before the CAC or TAC meeting, whichever is first.
2. An individual who is not a conference member obtains a conference member sponsor to request it according to the protocols under item 1.
3. An individual who is not a conference member raises the issue under Public Comments at any of the four committee meetings and the committee requests it for the next conference cycle.
4. A conference member raises the issue under Members Comments and the committee requests it for the next conference cycle.
5. A policy member raises it and the Policy Committee acts on it at the same meeting.

If both the CAC and TAC recommend against an individually raised item, it will not move on to the Management and Policy Committees for consideration. If there is not consensus at the Management Committee level, the issue will not move forward for consideration by the Policy Committee. If CHNEP staff determines that the packet is not complete, then the item will not be scheduled for CAC and TAC consideration. Sufficient information needs to be provided and available for the packet to be reviewed prior to the meeting for consideration.

### Types of Individual Issue Requests

Although any issue may be raised, the mission of CHNEP is designed to address over-arching issues rather than individual permits. These over-arching issues may include general permits, rules, and agency procedures. The CHNEP cannot take a policy position on any development permit or project without specific approval by the Policy Committee.

### Committee Member Requests

The committee member who requests an item at least two weeks prior to the meeting must provide an executive summary of the item and the action that they wish taken. The summary must also identify the clear link to the CCMP and its implementation.

### Individual Citizen Requests

The citizen who requests an item are asked to provide an executive summary, the action they wish to be taken, and any backup that is available. The staff role is to assist the citizen or group with the process and preparing the packet - not to endorse position being sought. The table on the following page provides a summary of the steps that a citizen should take to request an item for Charlotte Harbor NEP action.

### Policy Committee

Only the Policy Committee may authorize a formal CHNEP policy position – especially those relating to individual development permits or projects.

## **Citizen Guide to Request an Item for Charlotte Harbor NEP Action**

1	Contact the Charlotte Harbor NEP office at 941-575-5090. Be able to explain what you want the Charlotte Harbor NEP to do, why you want NEP involvement, and necessary timing/deadlines. The NEP staff will let you know when the next cycle of committee meetings are and what you need to do.
2	Demonstrate that you have taken your own actions to support your position. This may include contacting other agencies or having a citizen group to which you are a member write their own letters.
3	Attend one of the committee meetings and raise your issue under public comments for consideration at the next cycle of the four committee meetings. You may also obtain a conference member sponsor to request that the item be placed on the agenda for the next Citizen Advisory Committee or Technical Advisory Committee meeting. Obtaining a sponsor reduces the amount of time that will be necessary for the NEP to take action.
4	Understand that all four Charlotte Harbor NEP committees (Citizen Advisory, Technical Advisory, Management, and Policy) must consider the action you propose before action is taken. Either the Citizen or Technical Committee must recommend in favor of the position before the item can advance to Management and Policy Committees. The Management Committee must achieve consensus in order for it to be forwarded to the Policy Committee. The Policy Committee makes the final decision on whether the CHNEP will take a policy position on the issue.
5	Assist the Charlotte Harbor NEP staff to draft the necessary packet information to the best of your ability. The packet will include an executive summary, a motion for consideration, and backup information. Your assistance may include providing a draft executive summary, backup information, and requested motion. The best available science and complete information are important, both in support and not in support of your position.
6	Assist the Charlotte Harbor NEP staff to identify known opponents to your position. Known opponents and their organizations should know about the item and be able to contribute their input and information.
7	You should plan to attend the committee meetings. Your opportunity to speak to your item will be under public comments on agenda items.

## **Guide for Information to Provide**

1	Executive Summary
2	Requested Motion
3	Background Information
4	Location Map
5	Photographs
6	Appropriate Correspondence
7	Notification of Permit Applicant and Permitting Agency
8	List of any Known Opponents / Opposing Entities