

FAQs on DELEP Governance and the National Estuary Program (NEP)

March 2017

Summary

This document brings together in one place key NEP and DELEP information and guidance and is designed to help the DELEP community and partners understand expectations for the NEP and how DELEP operates.

This document is based on a *Frequently Asked Questions on National Estuary Program (NEP) Governance* document provided by the U.S. Environmental Protection Agency staff in Washington DC (EPA HQ), dated 2-19-15. That *FAQ* document acknowledges that each NEP is uniquely structured, organized, and governed by its partners, and that the NEP information provided within it is for general guidance and is not intended to be prescriptive.

This document includes all of the content provided in the EPA *FAQ* document, with DELEP-specific information on each of the topics/questions added by the Partnership for the Delaware Estuary (PDE).

Questions

1. What is the role of the NEP Management Conference (MC) and who are its members?
2. What is the role of the NEP Director and staff?
3. What is the role of the NEP host entity?
4. Who has the authority to recommend a new host entity and how is the NEP host entity selected?
5. Do all NEPs have host entities? If not, how are they structured?
6. Where should the NEP Office be located?
7. What is the role of the EPA Regional Offices in the NEP?
8. What is the role of EPA Headquarters in the NEP?
9. What is the purpose of the annual EPA assistance agreement?
10. What is the purpose of the NEP Program Evaluation (PE)?
11. What is the relationship between annual assistance agreement requirements and PEs?
12. What is the NEP Program Guidance?
13. What are the NEP reporting requirements?

1. What is the role of the NEP Management Conference (MC) and who are its members?

NEP

The MC is the local stakeholder-driven partnership that develops, updates, and implements an NEP Comprehensive Conservation Management Plan (CCMP) as authorized by Clean Water Act (CWA) §320. The partnership is a forum for open discussion, cooperation, consensus building, and collaborative decision making. The CCMP reflects a scientific characterization of, and stakeholder concerns about, the NEP study area, including water quality, habitat, and living resource challenges.

This document seeks to clarify EPA's NEP guidance and how the NEP and DELEP generally operate. It is a "living document" and will be added to, or modified, as needed in the future.

The MC typically establishes several core committees to carry out implementation of the CCMP. The roles of the various committees should be explicitly identified and documented by the MC. Although not standardized across all NEPs, in general, MCs usually include a policy committee that sets the overall direction for the NEP, a management committee that informs and approves projects and activities to implement the CCMP, and advisory committees that provide technical and citizen input.

Membership of the MC generally includes EPA Regional representatives, state and local government representatives, and other diverse stakeholders such as: (1) elected and appointed policymaking officials from all governmental levels; (2) environmental managers from federal, state, regional, and local agencies; (3) local scientific and academic communities; (4) private citizens; and (5) representatives from public and user interest groups—business, industry, community, and environmental.

DELEP

The original MC identified in the CCMP for the Delaware Estuary included hundreds of individuals organized into eight committees: a Policy Committee, Management Committee, Citizens Advisory Committee, Local Government Committee, Financial Planning Committee, Scientific and Technical Advisory Committee, Land Management Task Force, and Public Participation Task Force. The original DELEP staff consisted of staff from the core partners listed below, with support from NEP staff in the EPA Coastal Management Branch at headquarters.

Today, the core partners in the DELEP MC include the entities represented by signatories of the current *Memorandum of Agreement* for DELEP, signed in December 2014ⁱ. These include:

The Delaware Department of Natural Resources and Environmental Control (DNREC)
The New Jersey Department of Environmental Protection (NJDEP)
The Pennsylvania Department of Environmental Protection (PADEP)
Region 2 of the US Environmental Protection Agency (EPA R2)
Region 3 of the US Environmental Protection Agency (EPA R3)
The Delaware River Basin Commission (DRBC)
The City of Philadelphia’s Water Department (PWD)
The Board of Directors of the Partnership for the Delaware Estuary (PDE)

The 2014 Agreement defines the roles and responsibilities of these partners and has a life of 7 years that will expire at the beginning of December 2021. It was preceded by:

- A 2007 *Memorandum of Understanding* very similar to the current (2014) Agreement, between the same partners. This document was created following the reorganization of DELEP in 2004 (further described below) and outlined the roles and responsibilities of core DELEP partners and committees.ⁱⁱ
- A *MEMORANDUM OF AGREEMENT* signed in 2001 by the representatives from the three states, two regions of EPA, DRBC, and PDE. This document established the roles and

This document seeks to clarify EPA’s NEP guidance and how the NEP and DELEP generally operate. It is a “living document” and will be added to, or modified, as needed in the future.

responsibilities of DELEP partners, including the Delaware Estuary Program Office within the DRBC and the PDE, a non-profit organization established to participate in implementation of the CCMP.ⁱⁱⁱ

- *A Resolution on the Protection of the Delaware River Basin* signed in 1999 by the governors of the three states and administrators of the two regions of EPA, plus the governor of New York, and representatives of the Army Corps of Engineers and the National Park Service. This document recommitted the DELEP CCMP signatory states its implementation and recognized the nexus between DELEP and DRBC.^{iv}
- The *DELAWARE ESTUARY PROGRAM MANAGEMENT PLAN FOR THE DELAWARE ESTUARY PROCLAMATION* signed in 1996 by the governors of the three states (DE, NJ, PA) and administrators of two regions of EPA (R2, R3). This document proclaimed acceptance of the Delaware Estuary into the National Estuary Program and pledged these entities to work collectively to implement the actions in the CCMP.^v
- The *STATEMENT OF CONCURRENCE* signed in 1996 by the governors of the three states (DE, NJ, PA) and administrators of two regions of EPA (R2, R3). This document established DELEP's first MC, identifying agency support roles including participation in a steering committee made up of representatives from the three states, two regions of EPA, and PDE with rotating chairmanship by the states.^{vi}

DELEP incorporates a diversity of stakeholders in its MC through various elements of its structure.^{vii} The Steering Committee (SC) is made up of appointed policymaking officials from the signatory partners identified above (the “core NEP partners”) which include federal, state, regional, and local government. Under the current MOA, the SC meets at least once per year in person and once mid-year by conference call, and serves the role of a policy committee, setting overall direction for the NEP. There have been times over the years when the SC has met more or less, dependent on need (for example, there was a period between 2005 and 2010 when the SC did not meet at all; and in 2011, the SC met twice.) A list of current SC members is available online at http://www.delawareestuary.org/Steering_Committee.

The Estuary Implementation Committee (EIC) is made up of environmental managers from federal, state, regional, and local agencies, including but not limited to representatives of the core NEP partners. The EIC meets at least quarterly and serves the role of the management committee, approving and reporting on projects and activities to implement the CCMP. In 2008, the EIC began meeting jointly with the Board and STAC (described below.) A list of current EIC members is available online at http://www.delawareestuary.org/Estuary_Implementation_Committee.

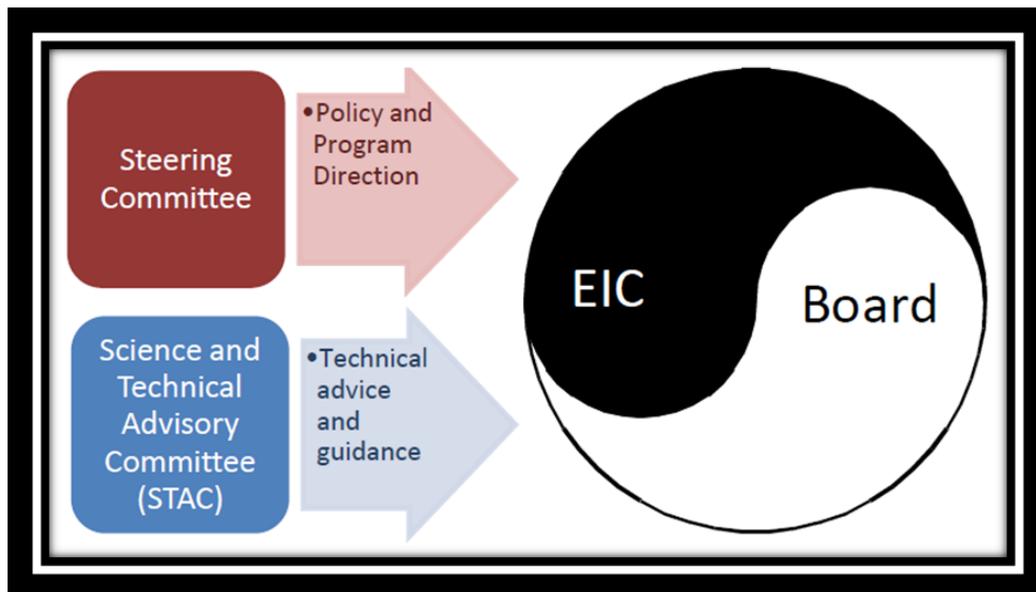
The Science and Technical Advisory Committee (STAC) is made up of members of the scientific and academic communities, including the public, private, and non-profit sectors. It operates in accordance with a charter. The STAC meets at least quarterly (including once per year with the EIC, since 2008) and provides technical input. Additional information about the STAC, including members, meetings, and charter is available online at http://www.delawareestuary.org/About_STAC.

This document seeks to clarify EPA’s NEP guidance and how the NEP and DELEP generally operate. It is a “living document” and will be added to, or modified, as needed in the future.

The PDE Board of Directors (Board) is made up of private citizens and representatives from public and user interest groups, including business, industry, community, and environmental. PDE’s bylaws allow each of the three state governors to appoint a Board member, providing the opportunity for additional elected-official input; an allowance that has not been exercised to date. The Board meets at least quarterly, including three meetings per year jointly with the EIC since 2008. The Board has a variety of committees on which Board members (and others) participate, as is typical for a non-profit organization. These include an Executive Committee (which is elected), a Nominating Committee, a Development Committee, a Finance Committee (new in 2015) and various ad hoc committees formed and used as needed. PDE also has a group of “Advisors” that it consults with from time to time as needed for input and expertise, most of which are past Board members. A list of current Board members and Advisors is available online at http://www.delawareestuary.org/Board_of_Directors.

The Board (and Advisors) is one way in which DELEP receives citizen input. PDE also receives citizen input through its website and 800-number, the biennial Delaware Estuary Science and Environmental Summit, and participation in sub-watershed collaborations like the Schuylkill Action Network, Christina Basin Clean Water Partnership, South Jersey Bayshore Coalition, and Delaware River Watershed Initiative Clusters. PDE has experience convening Citizen Advisory Committee’s – for DELEP in the early years, and later in partnership with the Philadelphia Water Department. Over time, PDE has found the combination of current efforts to be a more meaningful and effective way to interact with and get input from a large number and variety of stakeholders on key topics across a large and diverse watershed.

The following is a basic visual interpretation of how various elements of the DELEP management conference fit/work together.



This document seeks to clarify EPA’s NEP guidance and how the NEP and DELEP generally operate. It is a “living document” and will be added to, or modified, as needed in the future.

2. What is the role of the NEP Director and staff?

NEP

The NEP Director and staff serve many functions, including day-to-day management of NEP activities, providing administrative and technical support to NEP committees, conducting public outreach and education activities, coordinating and integrating NEP activities with existing water quality and natural resource protection and restoration efforts in the watershed, and identifying partners that will advance CCMP implementation. In addition, the Director solicits local support for the program, identifies additional sources of funding, and facilitates partner actions to help ensure there is no duplication of effort among partners. Finally, the Director reports NEP results to EPA (see #8 below).

The Director is hired by and is an employee of the host or independent entity. The MC, Policy Committee, or Board of Directors (if the NEP is a nonprofit organization) generally selects or concurs on the selection of the Director. The Director also supports and works to bring stakeholders to the table and to identify CCMP implementation partners. Since a Director is pivotal in bringing stakeholders to the table and in identifying CCMP implementation partners, the Director neither represents, nor should be perceived as representing, any particular entity, interest, or stakeholder, including the host entity.

The NEP staff is usually hired by the NEP Director in accordance with the host/independent entity's personnel policies and generally includes a Science or Technical Coordinator and, depending on an individual NEP's priority issues, may also include individuals with communications/outreach, administrative/financial, and technical expertise in water quality and habitat restoration.

DELEP

The Executive Director of PDE is the NEP Director for DELEP. The PDE Board of Directors is responsible for hiring (firing) and oversight of the Executive Director in accordance with the bylaws of the organization. The current PDE Executive Director was hired in 2007 through a selection process overseen by a committee including members of the PDE Board and EIC. The PDE Executive Director reports to the Board and serves as the chair of the EIC, which reports to the Steering Committee.

The PDE Executive Director is responsible for hiring and oversight of all PDE staff, including the PDE Science Director. The PDE Science Director serves as the Science Advisor to the STAC, which has a charter that outlines its makeup and operating procedures. The current Science Director was originally hired by the DRBC when the program was hosted there, and moved to PDE in 2005, after reorganization. Before re-organization, PDE focused almost exclusively on education, outreach, and fundraising activities. Since the reorganization, PDE has experienced tremendous growth, particularly in its science and restoration programs and the nexus of those programs with education and outreach activities. DRBC continues to provide core science and monitoring activities for DELEP.

The PDE Executive Director currently oversees a team of 20 professionals and an annual budget of about \$2.5 million in pursuit of the goals and objectives detailed in the organizations multi-year strategic plan (which is designed to address select actions of the CCMP, to which it is considered an addendum.)

This document seeks to clarify EPA's NEP guidance and how the NEP and DELEP generally operate. It is a "living document" and will be added to, or modified, as needed in the future.

Details on personnel are available online at [http://www.delawareestuary.org/Contact Us](http://www.delawareestuary.org/Contact_Us), and in an organizational staffing chart.^{viii}

The 1996 CCMP for the Delaware Estuary was completed after six years of hard work and dedication from hundreds of people participating on numerous committees. It was written to be implemented over a 25 year timeframe concluding in 2025, and remains in effect today. In 2007 and 2013, PDE created strategic plans that are considered "addendums" to the CCMP. Each of these plans outlines the specific goals, objectives and strategies that PDE will seek to undertake to advance CCMP actions in the proceeding 5-year timeframes. Each of these plans was created with input from the Board and EIC. The CCMP and current PDE Strategic Plan are online at <http://delawareestuary.org/plan>.

In 2010, PDE convened a 2-day joint workshop of the EIC and STAC to assess CCMP implementation progress and relevance. Results were reported in the 2012 State of the Estuary and Technical Report for the Estuary and Basin reports available online at <http://www.delawareestuary.org/state-of-the-estuary> and used to make a few minor updates to the CCMP, online at <http://delawareestuary.org/node/227>.

Results also informed subsequent efforts by PDE, working with the EIC and STAC, to develop a set of Measurable Goals for the Delaware Estuary, online at <http://delawareestuary.org/goals> completed in 2014. To meet new requirements put in place by EPA in 2014, efforts are now underway to revise the CCMP for the Delaware Estuary by September 2018, using the Measurable Goals framework as a starting point.

3. What is the role of the NEP host entity?

NEP

An NEP host entity, such as a state agency, university, or nonprofit organization administers the EPA assistance agreement that supports the activities and projects of the NEP. Most NEPs have a host entity, but there are some that are structured as independent agencies or organizations (see #5 below). The host entity generally: (1) provides a physical location in the NEP study area for the Director and staff; (2) oversees compliance with terms and conditions of the assistance agreement made with EPA; (3) maintains financial records; (4) submits progress reports and other required paperwork; and (5) adheres to eligible cost requirements, which include a non-Federal 50 percent match.

The host entity is usually a member of the MC. Each NEP is governed by its MC rather than solely by its host entity, or in the case of a nonprofit organization or independent agency by its Board. Any §320 funding awarded to the host entity (or the NEP if it is an independent entity) is required by the CWA to be used for the purposes and activities developed and approved by the MC and consistent with an NEP's CCMP.

DELEP

This document seeks to clarify EPA's NEP guidance and how the NEP and DELEP generally operate. It is a "living document" and will be added to, or modified, as needed in the future.

PDE is a hybrid – in many ways like an independent NEP and in others like a host entity. Like most independent NEPs (and unlike host entities), PDE is an independent non-profit 501(c)(3) organization whose mission is entirely focused on protecting and enhancing the Delaware Estuary. Like most host entities, (and unlike independent NEPs) PDE was not originally created as an NEP and has a Board of Directors for the organization in addition to its MC. Each year, PDE staff works with the EIC to develop a work plan that outlines how §320 funding for the following year will be used, in accordance with the funding level and program guidance provided by EPA.^{ix} PDE submits that work plan to EPA at the beginning of June, after it is approved by the EIC (typically in May). Throughout the year (at quarterly meetings of the Board and EIC and annual SC meetings and calls) PDE reports on work plan implementation progress to the MC.

4. Who has the authority to recommend a new host entity and how is a host entity selected?

NEP

The MC has the ability to decide that it wants the NEP to move to a new host entity to ensure effective implementation of its CCMP. For example, a MC could determine that the current host lacks the capacity to support the NEP’s administrative and/or financial needs.

While there is no specified process for selecting a host entity, the host entity must be independent of the interests of any particular group or agency. The process is usually guided by the MC, EPA HQ, and the Regional Office to ensure that the NEP maintains its credibility as a largely autonomous entity independent of any particular agency, stakeholder, or interest group.¹ In selecting a new host entity, MCs have either issued a public call for Statements of Interest from interested parties or certain members of the MC have expressed interest in taking on the role of host entity.

DELEP

DELEP has undergone two significant transitions in hosting since its creation in 1996. Originally, DELEP was “hosted” by the three state agencies (DNREC, PADEP, NJDEP) on a rotating basis, as outlined in the *STATEMENT OF CONCURRENCE* signed in 1996.

Several years later, there was a recognition by the partners of the nexus between the Estuary and the Basin, as indicated by the *Resolution on the Protection of the Delaware River Basin* signed in 1999. In recognition of this nexus and to provide more stability DRBC became the host entity for DELEP, as indicated by the *MEMORANDUM OF AGREEMENT* signed in 2001.

Several years later, partners recognized the benefits of PDE as an independent nonprofit organization and the challenges of having DELEP and PDE as separate organizations; one a non-profit, and one hosted within DRBC. As a result, DELEP was moved into PDE and PDE was reorganized to take on the responsibilities of the NEP, resulting in Partnership for the Delaware Estuary, A National Estuary

¹ While the host entity is accountable for the NEP personnel and administers the §320 assistance agreement, the MC provides the overall policy direction for the NEP.

This document seeks to clarify EPA’s NEP guidance and how the NEP and DELEP generally operate. It is a “living document” and will be added to, or modified, as needed in the future.

Program. The *Memorandum of Understanding* signed in 2007 reflected this change, and added the City of Philadelphia, through its Water Department (PWD) as a core partner in the NEP.

5. Do all NEPs have host entities? If not, how are they structured?

NEP

No. Several NEPs are independent organizations that do not have a host entity and therefore directly administer the federal assistance agreements. An independent NEP can be structured as a Not for Profit organization, an independent agency within a state or local government, or other organizational structure.

DELEP

Today, PDE is an independent organization responsible for fulfilling the NEP requirements for DELEP with cooperation from its partners. PDE's organizational structure still shows remnants of its evolution, with some characteristics of a host entity and some characteristics of an independent NEP. PDE has a MC that includes representation from its Board of Directors along with the six public agencies that are its core partners (see list on page 2). To fulfill NEP responsibilities, PDE relies heavily on the DRBC to meet certain monitoring requirements for the Estuary and the operation of related committees like the Monitoring Advisory and Coordination Committee (MACC) and Toxics Advisory Committee. The Delaware Estuary is among the largest (6,500 square miles) and most complicated (three states, two regions of EPA, and hundreds of local governing bodies) of the NEPs

To encourage greater cohesion between its public and private sector partners over time, PDE adopted a joint meeting schedule in 2008 whereby the EIC meets jointly with the Board three out of four times per year, and jointly with the STAC once annually. Over the years, PDE has also strengthened its relationship with DRBC, holding joint meetings of the MAC and STAC to assess monitoring needs and indicator development for State of the Estuary/Basin reporting every 3-5 years. In 2014, the decision was made to increase this collaboration by holding a joint meeting annually between the STAC and MACC to discuss monitoring plans and needs for the Estuary for the upcoming year.

6. Where should the NEP Office be located?

NEP

Since the NEP office typically serves as the focal point of planning and coordination among the government agencies with jurisdiction over the study area, the location of the office can impact the overall visibility of the NEP. Therefore, EPA prefers that the program office be located in the study area for greater visibility and awareness.

DELEP

This document seeks to clarify EPA's NEP guidance and how the NEP and DELEP generally operate. It is a "living document" and will be added to, or modified, as needed in the future.

When DELEP was originally created, MC leadership (and the DELEP office) rotated among the three states. When the DRBC became the host agency for DELEP, its offices in West Trenton (at the northern edge of the DELEP study area) became the program office. Today, PDE's headquarters in Wilmington Delaware serves as the program office. It is centrally located within the operating area and easily accessible to major highways and public transportation. Information about and directions to the PDE office can be found online at: http://www.delawareestuary.org/Contact_Us.

7. What is the role of the EPA Regional Office in the NEP?

NEP

Regional Offices have substantial responsibility for both the award of an annual assistance agreement between EPA and an NEP and for the administration of those agreements, including the oversight of an NEP's performance of tasks included in annual assistance agreement work plans. The Regional Office reviews and approves each NEP work plan, provides day-to-day assistance to each NEP, and is a member of the MC. The Regional Office also connects the NEP to EPA programs that are relevant to the NEP's efforts, provides advice on reporting and status updates as needed to EPA HQ contacts, and helps an NEP prepare for its upcoming PE review.

The Regional Office thus ensures that NEP activities are carried out in a manner consistent with CWA §320, EPA assistance agreement authorities, and the NEP's CCMP. (See the June 16, 2011, HQ and Regional Coordinator Roles and Responsibilities for more information.)

DELEP

The Delaware Estuary study area includes part of EPA R2 (New Jersey) with offices in New York City and EPA Region 3 (Pennsylvania and Delaware) with offices in Philadelphia. Both regions are part of the MC and both have Regional Coordinators assigned to work closely with PDE. However, Region 3 has responsibility for administering PDE's annual assistance agreement, including making sure that activities under that agreement are carried out consistent with EPA requirements and the CCMP. EPA Regional Coordinators participate in all MC meetings/activities and have additional (weekly) interaction with PDE staff by phone, email, and in person.

8. What is the role of EPA Headquarters in the NEP?

NEP

EPA HQ is the National Program Manager for the NEP and has broad responsibility for overall policy and management of the NEP, including fiduciary oversight of the Program. As the National Program Manager, EPA HQ complements the Regions' oversight of assistance agreements and raises the visibility of NEPs within the Office of Water, across EPA, with other federal agencies, and with

This document seeks to clarify EPA's NEP guidance and how the NEP and DELEP generally operate. It is a "living document" and will be added to, or modified, as needed in the future.

Congressional staff. EPA HQ also collects and reports NEP environmental results and leveraging data and leads the NEP PEs.

In addition, when Regional Offices raise an NEP-specific issue with national implications to EPA HQ (e.g., a policy, programmatic, or fiduciary issue), EPA HQ works with the relevant Regional Office to address the issue and subsequently provides information about the issue to those the Regional Offices that have NEP oversight responsibility. EPA HQ provides timely advice and support to the Regional Offices on assistance agreement issues as needed. (See the June 16, 2011, HQ and Regional Coordinator Roles and Responsibilities for more information.)

DELEP

There are a number of ways in which PDE interacts regularly with staff at EPA HQ, in addition to regional staff. These include for annual work plan submission and NEPORT data reporting, as well as the PE process every 5 years (as described above.) NEPs from around the country convene twice annually (in the fall and winter) to share lessons learned and discuss national priorities. The winter NEP meeting is typically hosted by EPA in Washington DC and a wide variety of EPA HQ staff are involved in presenting and participating. This meeting is scheduled for a critical time in the federal budgeting process and also gives the NEPs an opportunity to conduct outreach to federal elected officials in Washington DC. The fall NEP meeting is typically hosted by a local NEP or partnering organization (like Restore America's Estuaries or the Coastal Estuarine Research Federation) and at least some EPA HQ staff typically participate in those as well. The Association of National Estuary Programs (ANEP) helps to organize both meetings, and holds a Board of Directors meeting at each. Every NEP Director is automatically a member of the ANEP Board; the PDE Executive Director recently retired as the ANEP Board Secretary.

PDE also periodically works with EPA HQ staff to advance specific work/programs where there are HQ opportunities that align with PDE goals/efforts. For example, PDE has worked with HQ staff on the Climate Ready Estuaries program and coastal wetlands assessment program to do work on climate adaptation planning and advance living shorelines techniques and applications. In some cases, this work has resulted in additional EPA support for PDE.

9. What is the purpose of the annual EPA assistance agreement?

NEP

The EPA annual assistance agreement is a legally-binding agreement between an EPA Regional Office and an NEP host or independent entity. The assistance agreement lays out how an NEP will use its §320 funds in addition to the required non-Federal 50 percent match and includes the NEP annual work plan that describes actions the NEP will take to implement its CCMP. Note that §320 funds can be used for NEP administrative and financial management activities. The Regional Office is responsible for overseeing the NEPs' fulfillment of the requirements of the assistance agreement.

This document seeks to clarify EPA's NEP guidance and how the NEP and DELEP generally operate. It is a "living document" and will be added to, or modified, as needed in the future.

DELEP

As mentioned above, PDE staff works with the EIC to develop and submit the NEP work plan at the beginning of June. Based on this work plan, §320 funds are awarded in the fall (typically in September) in the form of a cooperative agreement between EPA Region 3 and PDE. The core DELEP partners (listed on page 2) commit in-kind services and projects to meet the match requirement for §320 funds. These commitments are made as part of the work planning process, which typically starts at the winter EIC meeting and culminates at the spring EIC meeting with work plan approval.

PDE operates on a calendar year. Once awarded, §320 funds are incorporated in PDE's annual budget, which is developed in the fall and presented to its Board of Directors for approval by year-end (typically in late November or early December.) PDE typically does not start spending §320 funds until January, three months into the federal fiscal year for which they were awarded. §320 funds typically make up one-quarter to one-third of PDE's budget.

The remainder of the funds in PDE's annual budget is raised through grant-writing and other fundraising activities undertaken by PDE staff and Board members. NEP funds help to support grant-writing and management activities, but cannot be used for other fundraising activities. PDE has a fundraising plan that details goals, objectives, and strategies for raising the support needed by the organization. Originally created in 2008, this plan is revisited with the PDE Board each year and was updated in 2014 based on the PDE Strategic Plan completed in 2013.^x More than 80% of PDE's income in recent years has come from government sources (federal, state, and local) so fundraising plans have focused on diversifying funding and increasing PDE's private donor base while maintaining strong government support.

10. *What is the purpose of the NEP Program Evaluation (PE)?*

NEP

The purpose of the PE is to determine whether each NEP has made adequate progress implementing its CCMP since the previous PE and therefore merits continued funding under CWA §320. EPA HQ is responsible for leading the PE. Major benefits of conducting the PE include:

- Increasing transparency and mutual accountability on the part of EPA and the NEPs;
- Enhancing NEP governance, program operations, and management;
- Highlighting environmental results;
- Highlighting strengths and challenges in program management;
- Demonstrating continued stakeholder commitment, effective management, and environmental and programmatic results to EPA, OMB, and Congress;
- Transferring lessons learned within EPA, among the NEPs, and with other watershed programs;
- Assisting EPA in making resource allocation decisions to strengthen each NEP.

DELEP

This document seeks to clarify EPA's NEP guidance and how the NEP and DELEP generally operate. It is a "living document" and will be added to, or modified, as needed in the future.

PDE passed its last completed PE with no problems in 2014 and received a letter detailing its strengths and challenges.^{xi} For the 2014 PDE, PDE compiled and submitted a complete PE package in late February that detailed accomplishments and summarized results from its efforts from 2008-2013. Then in April, PDE hosted three days of meetings and site visits with partners and the PE team that other Board and EIC members were invited and encouraged to attend. PDE's 2014 PE team included representatives from EPA HQ, EPA R2, EPA R3, and the Director of the Tillamook NEP (in WA). PDE received overwhelmingly positive feedback from PE team members during the process. PDE's next PE will be in 2019.

10. *What is the relationship between annual assistance agreement requirements and PEs?*

NEP

The assistance agreement and PE process requirements are separate but related elements of EPA's NEP oversight responsibilities. The assistance agreement, which is managed by an EPA Regional Office, includes the NEP annual work plan that describes actions the NEP will take to implement its CCMP. The PE, which is led by EPA HQ, looks at the NEP's performance over the past five years in order to identify strengths, challenges, and recommendations for improvement.

If an EPA Regional Office finds that an NEP has not performed the tasks included in its mutually-agreed upon annual assistance agreement work plan, the Regional Office will take actions to address the NEP's performance issues, even if the NEP passed its last PE. The challenges and recommendations identified in a PE findings letter will be clearly and explicitly identified to the NEP Director and the MC. Follow-up communication between the Regional Offices, EPA HQ, and the NEP allows issues that have been raised in the PE to be addressed in a timely manner.

The Regional Office helps develop the challenges and recommendations included in a PE letter and works with an NEP to identify and implement actions to address them through subsequent annual work plan(s) as well as on-going communication with the NEP Director, MC, and EPA HQ. If an NEP has not addressed PE challenges within a mutually agreed-upon time frame, the Regional Office may add a special term and condition to the annual assistance agreement specifying actions that the NEP must take to address those challenges.

DELEP

The letter PDE received after the 2014 PE was overwhelmingly positive, praising PDE for progress on past challenges and recognizing PDE strengths. Between 2009 and 2013 PDE worked with its MC to develop a set of measurable goals for the Estuary^{xii} and a new system for tracking CCMP implementation – the two challenges identified in the 2009 PE letter. The 2014 PE letter identified new challenges, including improving communications and meeting participation, getting a new MOU in place, and revising the CCMP to meet new requirements.

This document seeks to clarify EPA's NEP guidance and how the NEP and DELEP generally operate. It is a "living document" and will be added to, or modified, as needed in the future.

PDE has already taken major steps to address the challenges identified in the 2014 PE letter, including executing a new MOA with partners in December 2014, making CCMP revision a top priority in its 2015, 2016, 2017 (and likely 2018) work plans and raising significant additional non-federal funds to support the CCMP revision process.

PDE is one of eight NEPs in PE Group C. These NEPs will undergo their next PE in 2019. EPA HQ periodically updates and provides the NEP Program Evaluation Guidance.

12. What is the NEP Program Guidance?

NEP

The EPA's Coastal Management Branch in Washington DC transmits Program Guidance to the NEP Directors and NEP Regional Coordinators on an annual or biennial basis. This document provides general guidance to the NEPs and Regions on §320 policies and requirements and addresses annual work plan content and submittal deadlines, required travel documentation, match requirements, and Government Performance and Results Act (GPRA) habitat and leveraging reporting requirements. EPA recognizes the need for NEPs to have flexibility in administering local programs and that each NEP is responding to unique, local environmental priorities as established in their CCMPs and the Program Guidance is intended to allow for such flexibility.

DELEP

The most recent NEP Program Guidance received by PDE is the NATIONAL ESTUARY PROGRAM FY 2015 AND FY 2016 CLEAN WATER ACT 320 FUNDING GUIDANCE FOR NATIONAL ESTUARY PROGRAM DIRECTORS, which includes new requirements for CCMP Revisions and Updates.

13. What are the NEP reporting requirements?

NEP

Every five years the NEPs prepare a Program Evaluation report, described at http://water.epa.gov/type/oceb/nep/upload/2011_final_pe_guidance.pdf, and submits it to EPA HQ and Regional Offices. In addition, all NEPs must track and report the annual number of acres of habitat protected or restored and number of dollars leveraged. NEPs must track and report on these measures to EPA HQ using the NEP Online Reporting Tool (NEPORT) which is located at: <https://yosemite.epa.gov/water/neport.nsf/frmMenuLev?ReadForm>). The NEP Program Guidance (see Question #12 above) outlines what and when the NEPs need to report on habitat and leveraging, as well QA/QC responsibilities of the Regional NEP Coordinators. The NEP Director and staff work with their NEP Regional Coordinators to ensure that the NEP habitat data commitments are made early in the fiscal year.

This document seeks to clarify EPA's NEP guidance and how the NEP and DELEP generally operate. It is a "living document" and will be added to, or modified, as needed in the future.

The data collected for these measures must be entered into NEPORT at the end of the fiscal year in a timely manner so that EPA is able to enter the data into EPA's Annual Commitment System (ACS). Reporting on acreage protected and restored is a condition of the NEP's assistance agreement and requires each recipient to report on environmental results. NEP leveraging data are important because they depict the magnitude of local resources and support for CCMP implementation and the multiplier effect of federal investment in place-based estuarine protection and restoration. NEP data developed in response to Program Guidance requirements are also used by NEPs to communicate about their accomplishments to local stakeholders and the general public. Each NEP is also required to report on the deliverables, outputs, outcomes, and financials in response to NEP Program Guidance and Regional Office requirements.

DELEP

In addition to the 5-year PE process described above, PDE reports work plan implementation progress regularly to EPA in the form of: 1) written updates provided quarterly to the Board and EIC, 2) a written report on the current year's work plan progress/accomplishments submitted to EPA twice each year – once in December and once as part of the work plan package for the following year at the beginning of June, 3) written close-out reports for each cooperative agreement submitted to EPA at the end of the year every two years in accordance with award requirements, and 4) GPRA reporting as described above.

Each year, EPA HQ provides PDE with instructions/guidance for NEPORT data collection/reporting.^{xiii} To provide the information required for GPRA reporting, PDE begins the process of collecting habitat and leveraging data from its core partners in June. Over the summer that information is collected on spreadsheets that PDE downloads into the NEPORT online system by a deadline set by EPA HQ in late August or early September. EPA Regional Coordinators then have a week or two to review/approve this data before it is finalized by EPA HQ.

Each year PDE works with its Region 3 Coordinator to establish a goal for habitat acres that is included in the annual work plan. That goal is currently 1500 acres, down from 2500 acres several years ago. PDE has met its goal in all but one year since taking over the coordinating/reporting role, thanks largely to the land protection and restoration activities of state partners. This information is used by EPA to assess and communicate NEP success. There is ongoing discussion between the NEPs and EPA about the value of using these metrics (acres, dollars) to measure NEP success. It is important the metrics used be measurable and consistent across all NEPs for EPA reporting purposes, making it challenging to identify suitable alternatives.

This document seeks to clarify EPA's NEP guidance and how the NEP and DELEP generally operate. It is a "living document" and will be added to, or modified, as needed in the future.

REFERENCES

EPA NEP References (available from EPA upon request)

- Clean Water Act, §320, as Amended.
- General Grant Regulations and Procedures (40 CFR 30 and 40 CFR 31).
- Technical Amendment Financial Assistance Requirements for the National Estuary Program (40 CFR, Part 35).
- EPA# 842B05003 Community-based Watershed Management: Lessons from the NEP
- EPA# 842B92002 National Estuary Program Guidance - Comprehensive Conservation and Management Plans: Content and Approval Requirements.
- EPA# 842B93001 National Estuary Program Guidance: Base Program Analysis.

DELEP References – available from PDE upon request

- ⁱ 2014 DELEP MOA
- ⁱⁱ 2007 DELEP MOU
- ⁱⁱⁱ 2001 DELEP MOA
- ^{iv} 1999 Delaware River Basin Resolution (with DELEP recommitment)
- ^v 1996 DELEP Proclamation
- ^{vi} 1996 DELEP STATEMENT OF CONCURRENCE
- ^{vii} PDE NEP Committees summary document and flow chart
- ^{viii} PDE Staffing Chart
- ^{ix} EPA NEP Funding Guidance (issued every 1-2 years)
- ^x 2014 PDE Fundraising Plan Update
- ^{xi} 2014 PDE PE Letter
- ^{xii} Measurable Goals for the Delaware Estuary
- ^{xiii} EPA NEPORT guidance document

This document seeks to clarify EPA’s NEP guidance and how the NEP and DELEP generally operate. It is a “living document” and will be added to, or modified, as needed in the future.