



**LEILANI CRAFTS ULRICH**  
Chairwoman

**TERRY MARTINO**  
Executive Director

## **MEMORANDUM**

**TO:** Terry Martino

**FROM:** James Townsend, Counsel

**DATE:** June 2, 2016

**RE:** Proposed Rule Making - SEQR Rules (9 NYCRR Part 586)

For Agency information, please find enclosed a revised staff proposal to repeal and replace APA's State Environmental Quality Review Act ("SEQR") rules in 9 NYCRR Part 586. A red-lined version comparing the revised rules to staff's original proposal is also enclosed. The revised rules reflect consultation with DEC's legal and technical SEQR staff and take into consideration a comment letter received on the original proposal (enclosed).

Staff intend to seek input on the revised rules from the Local Government Review Board and other key stakeholders. Our goal is to seek Agency approval to proceed with a formal rulemaking within the next several months.

### **Goals of proposed rulemaking:**

*(1) To eliminate APA's SEQR rules that duplicate DEC's SEQR rules; (2) To update and clarify APA's lists of Type 1 and Type 2 projects; and (3) To add rules necessary for APA-specific implementation of SEQR.*

### **Statutory/regulatory context:**

SEQR is set forth in Article 8 of the Environmental Conservation Law ("ECL"). The statute empowers the New York Department of Environmental Conservation ("DEC") to adopt rules governing the law's implementation, which it has done in 6 NYCRR Part 617. DEC's rules "provide a statewide regulatory framework for the implementation of SEQR by all state and local agencies."<sup>1</sup> Local governments and other agencies, including APA, are authorized by SEQR to adopt rules providing "additional procedures as may be necessary"<sup>2</sup> for them to implement SEQR. Those rules must be consistent with DEC's rules.<sup>3</sup>

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<sup>1</sup> 6 NYCRR 617.1(e)

<sup>2</sup> ECL § 8-0113(3)

<sup>3</sup> Id.

SEQR applies to all actions that APA proposes or approves. DEC's rules list some common types of governmental actions as Type I or Type II. Under DEC's rules, all other actions are "Unlisted" actions. Type I actions are more likely than Unlisted actions to require an environmental impact statement. Type II actions do not require an environmental impact statement under SEQR. APA Class A and Class B regional projects under are listed in DEC's rules as Type II actions. APA is subject to DEC's Type I and Type II action lists, but may adopt its own lists of additional Type I and Type II actions.<sup>4</sup>

### **Discussion of revised rules:**

Goal #1 – In our discussions with DEC's SEQR staff regarding APA's proposed rules, DEC staff have strongly encouraged APA to adopt a minimalist approach. By contrast, the public comment letter responding to staff's original proposal generally urges APA to retain all of its existing SEQR rules as "essential to understanding the Agency's relation to and substantive and procedural obligations under SEQR." Compared to APA's existing rules, staff believe that the revised rules will provide far more clarity in this regard. APA's existing SEQR rules are duplicative and in some cases inconsistent with DEC's rules, creating confusion. The revised rules simply provide that DEC's rules govern APA's SEQR implementation and definitions, and only include a handful of additional rules specific to APA's implementation of SEQR.

Goal #2 – The public comment letter provided some thoughtful comments on APA's existing and proposed Type I/Type II action lists, which staff respond to below.

#### *Type I comments –*

1. Staff have revised the introductory language to the Type I list to more closely conform to DEC's rules, as suggested by the commenters.
2. The commenters objected to the proposed elimination of rulemakings from APA's Type I action list. Staff continue to believe that making all rulemaking actions Unlisted actions (this includes the types of rulemakings on the existing Type II action list) is preferable, given the wide range of the types and substance of rulemakings that may occur. It is also consistent with DEC's approach to rulemakings in its SEQR rules. DEC concurs with this approach.
3. Staff do not agree with the commenters on the need for a reference to the Final Generic Environmental Impact Statement in APA's SEQR rule concerning amendments to the Adirondack Land Use and Development Plan Map.
4. The existing rules include a paragraph denoting certain types of rivers projects as Type I actions. The commenters ask for retention of this complicated paragraph. Staff continue to propose its elimination in favor making all rivers projects Unlisted actions.

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<sup>4</sup> 6 NYCRR § 617.14(e)

*Type II comments –*

APA's existing rules include as Type II actions rivers projects that are not Type I actions and all projects solely subject to the Freshwater Wetlands Act jurisdiction. As the commenters correctly point out, DEC's rules only allow other agencies to add actions as Type II that will "in no case, have a significant adverse impact on the environment."<sup>5</sup> This generic conclusion cannot be made with respect to all of the rivers or wetlands projects now denoted Type II by APA's existing rules. Accordingly, staff propose to eliminate these types of projects from APA's existing Type II action list, making them Unlisted actions instead.

Goal #3 – Section 586.5 of staff's original proposal provided "additional procedures" to apply to APA's implementation of SEQR. Based on staff's discussions with DEC, the only APA-specific procedural rule needed in APA's rules is to provide that time periods required by the APA Act or APA's rules may be applied in the review of SEQR documents and for public hearings. DEC's rules allow for this type of individual-agency rule. Accordingly, this section has been revised to eliminate the other subdivisions, all of which would have been duplicative of SEQR or DEC's rules.

Finally, the commenters' make a general assertion that there is a need to amend SEQR to allow APA to require an environmental impact statement for Class A or Class B regional projects that will have a significant effect on the environment. As a clarification, SEQR only provides that an environmental impact statement is not required for such projects. It does not prohibit APA from requiring an environmental impact statement for Class A or Class B regional projects. APA's existing rules recognize this distinction, authorizing APA to take the procedural step of requiring "an environmental impact statement containing some or all of the elements required by"<sup>6</sup> SEQR for Class A or Class B projects that are not minor projects when it is needed in order to enable APA to make all of the required "findings and determinations" for the project.<sup>7</sup>

JTT:mp  
Enclosures

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<sup>5</sup> 6 NYCRR § 617.5(b)(1)

<sup>6</sup> 9 NYCRR § 572.4(c)

<sup>7</sup> Id., See *also*, *Ass'n for Prot. of Adirondacks, Inc. v. Town Bd. of Town of Tupper Lake*, 64 A.D.3d 825, 826-27, 882 N.Y.S.2d 534, 537 (2009)

## **PROPOSED RULES PRESENTED TO THE AGENCY**

Part 586 is repealed and a new Part 586 is adopted to read as follows:

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### **§ 586.1 Purpose of this Part.**

~~The regulations set forth in 6 NYCRR purpose of this Part 617 govern the Agency's implementation of the State Environmental Quality Review Act (SEQR). This Part provides regulationsis to provide rules, in addition to those set forth in 6 NYCRR Part 617, which are necessary for the Agency's agency's implementation of SEQR and compliance with the State Environmental Quality Review Act, Environmental Conservation Law Article 8 (SEQR).~~

### **§ 586.2 Definitions.**

~~The terms used in this Part have the meanings given to them in Environmental Conservation Law section 8-0105, 6 NYCRR Part 617 or in this Subtitle, as applicable.~~

### **§ 586.3 General rules.**

~~(a) The agency's implementation of SEQR is governed by 6 NYCRR Part 617 and the rules provided in this Part.~~

~~(b) Agency actions that are not listed as Type I Actions or Type II in 6 NYCRR Part 617 or in this Part are Unlisted actions.~~

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~~(d) In addition to the requirements of 6 NYCRR Part 617, the agency shall publish any negative declaration for an Unlisted action in the Environmental Notice Bulletin (ENB).~~

### **§ 586.4 Type I actions.**

~~(a) The Type I actions listed in this section are in addition to those listed in 6 NYCRR Part 617 and are. A Type I action carries with it the presumption that it is more likely to than an Unlisted action to have a significant adverse impact on the environment and require the preparation of an environmental impact statement than Unlisted actions.~~

~~(b) The following are Type I actions:~~

~~(1) Amendments to the official Adirondack Park Land Use and Development Plan Map pursuant to subdivisions (1) – (3) of Executive Law section 805(2)(c).~~

## PROPOSED RULES PRESENTED TO THE AGENCY.

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(2) Recommendations to the ~~Governor~~governor and ~~Legislature~~legislature of amendments to the official Adirondack Park Land Use and Development Plan Map pursuant to Executive Law section 805(2)(d) .

(3) Additions to the ~~classification of~~ compatible use lists, or recommendations to the ~~Governor~~governor and ~~Legislature~~legislature of subtractions therefrom, pursuant to Executive Law section 805(3)(b).

(4) ~~Approval~~Initial approval of local land use programs, components thereof or industrial site plan review laws or ordinances pursuant to subdivisions (1) – (5) of Executive Law section 807.

(5) ~~Amendments to and recommendations~~Recommendations of amendments to the ~~Governor~~governor for the master plan for the management of State lands pursuant to Executive Law section 816(2), except for ~~recommendations of amendments for~~ the correction of mapping errors, the more precise definition of boundaries and minor technical changes to the master plan.

(6) Transfer to a town or village of any or all jurisdiction over regulated activities in freshwater wetlands in the Adirondack Park pursuant to section 24-0803 of the Environmental Conservation Law.

(7) The approval of a rivers system land management plan pursuant to section 577.9 of this Subtitle.

(8) The issuance of a general permit pursuant to section 572.23 of this Subtitle.

### § 586.45 Type II ~~Actions~~sactions.

(a) The Type II actions listed in this section are in addition to those listed in 6 NYCRR Part 617.

(b) The following are Type II actions:

(1) Contracting, including the contracting for or acceptance of professional and technical assistance or advice, or any funding or planning activities not in respect to ~~type~~Type I actions listed in 6 NYCRR section 617.4 or in section 586.3 of this Subtitle.

~~(2) Amendments to the master plan for the management of State lands pursuant to Executive Law section 816(2) for the correction of mapping errors, the more precise definition of boundaries and minor technical changes to the master plan.~~

## PROPOSED RULES PRESENTED TO THE AGENCY

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~~(3) The approval of any rivers project or variance pursuant to Part 577 of this Subtitle.~~

~~(4) The approval of any regulated activity in wetlands that is jurisdictional pursuant to Environmental Conservation Law Article 24, but not Executive Law section 810.~~

~~(5)(2) The preparation and distribution of any report required by section Executive Law section 804(10).~~

~~(6)(3) The granting of individual variances and from the shoreline clustering permits pursuant to restrictions set forth in Executive Law section 806- and Part 577 of this Subtitle.~~

~~(7)(4) The reversal of variances pursuant to Executive Law section 808(3).~~

### ~~§ 586.5 Additional procedures applicable~~6 Time periods.

~~In order to Agency actions:~~

~~(a) For all actions that it proposes or approves, the Agency shall comply with Environmental Conservation Law section 8-0109(1) to realize coordinate the policies and goals of SEQR, and to select alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable minimize or avoid adverse environmental effects.~~

~~(b) The Agency shall include a reference to SEQR notices for an action in other public notices required by this Subtitle with respect to the same action.~~

~~(c) Public hearings the Agency determines to hold pursuant to 6 NYCRR Part 617 shall follow the review process and timeframes provided for such hearings in the with agency procedures, the agency may follow the time periods established by the Adirondack Park Agency Act or this Subtitle, as applicable.~~

~~(d) The Agency may direct the executive director to issue its findings statement and a decision for an action that has been the subject in the preparation and review of a final environmental impact~~

**PROPOSED RULES PRESENTED TO THE AGENCY**

statement ("FEIS") after affording agencies and the public not less than 10 calendar days in which to consider the FEIS following publication of SEQR documents, and the conduct of the notice of completion of the FEIS in the Environmental Notice Bulletin pursuant to 6 NYCRR Part 617; public hearings.

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Subdivision (d) of section 572.23 is repealed and subdivisions (e), (f), (g) and (h) of section 572.23 are renumbered (d), (e), (f) and (g).

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Part 586 is repealed and a new Part 586 is adopted to read as follows:

§ 586.1 Purpose of this Part.

The purpose of this Part is to provide rules, in addition to those set forth in 6 NYCRR Part 617, which are necessary for the agency's implementation of and compliance with the State Environmental Quality Review Act, Environmental Conservation Law Article 8 (SEQR).

§ 586.2 Definitions.

The terms used in this Part have the meanings given to them in Environmental Conservation Law section 8-0105, 6 NYCRR Part 617 or in this Subtitle, as applicable.

§ 586.3 General rules.

(a) The agency's implementation of SEQR is governed by 6 NYCRR Part 617 and the rules provided in this Part.

(b) Agency actions that are not listed as Type I or Type II in 6 NYCRR Part 617 or in this Part are Unlisted actions.

(d) In addition to the requirements of 6 NYCRR Part 617, the agency shall publish any negative declaration for an Unlisted action in the *Environmental Notice Bulletin (ENB)*.

§ 586.4 Type I actions.

(a) The Type I actions listed in this section are in addition to those listed in 6 NYCRR Part 617. A Type I action carries with it the presumption that it is more likely than an Unlisted action to have a significant adverse impact on the environment and require an environmental impact statement.

(b) The following are Type I actions:

(1) Amendments to the official Adirondack Park Land Use and Development Plan Map pursuant to subdivisions (1) – (3) of Executive Law section 805(2)(c).

(2) Recommendations to the governor and legislature of amendments to the official Adirondack Park Land Use and Development Plan Map pursuant to Executive Law section 805(2)(d) .



(3) Additions to the compatible use lists, or recommendations to the governor and legislature of subtractions therefrom, pursuant to Executive Law section 805(3)(b).

(4) Initial approval of local land use programs, components thereof or industrial site plan review laws or ordinances pursuant to subdivisions (1) – (5) of Executive Law section 807.

(5) Recommendations of amendments to the governor for the master plan for the management of State lands pursuant to Executive Law section 816(2), except for recommendations of amendments for the correction of mapping errors, the more precise definition of boundaries and minor technical changes to the master plan.

(6) Transfer to a town or village of any or all jurisdiction over regulated activities in freshwater wetlands in the Adirondack Park pursuant to section 24-0803 of the Environmental Conservation Law.

(7) The approval of a rivers system land management plan pursuant to section 577.9 of this Subtitle.

(8) The issuance of a general permit pursuant to section 572.23 of this Subtitle.

§ 586.5 Type II actions.

(a) The Type II actions listed in this section are in addition to those listed in 6 NYCRR Part 617.

(b) The following are Type II actions:

(1) Contracting, including the contracting for or acceptance of professional and technical assistance or advice, or any funding or planning activities not in respect to Type I actions listed in 6 NYCRR section 617.4 or in section 586.3 of this Subtitle.

(2) The preparation and distribution of any report required by section Executive Law section 804(10).

(3) The granting of individual variances from the shoreline restrictions set forth in Executive Law section 806 and Part 577 of this Subtitle.

(4) The reversal of variances pursuant to Executive Law section 808(3).

§ 586.6 Time periods.

In order to coordinate the SEQR environmental review process with agency procedures, the agency may follow the time periods established by the Adirondack Park Agency Act or this Subtitle in the preparation and review of SEQR documents, and the conduct of public hearings.

Subdivision (d) of section 572.23 is repealed and subdivisions (e), (f), (g) and (h) of section 572.23 are renumbered (d), (e), (f) and (g).

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**Adirondack Council · Adirondack Mountain Club**  
**Adirondack Wild: Friends of the Forest Preserve · Protect the**  
**Adirondacks!**

December 16, 2015

Paul Van Cott, Esq.  
Associate Attorney, Adirondack Park Agency  
P.O. Box 99  
Ray Brook, NY 12977

Dear Paul,

Thank you for the opportunity to comment on the Adirondack Park Agency's pre-release draft revisions to its SEQRA and FOIL regulations. The undersigned organizations are pleased by the Agency's interest in exploring reforms, as we can all agree that both statutory and regulatory reforms are long overdue. We can appreciate the objectives of these revisions: to eliminate unnecessary duplications/inconsistencies and old rules which have not kept up with the times. At the same time, we are concerned that any amendments must be in accordance with statutory and regulatory requirements and not erode protections built into the SEQRA and FOIL laws and regulations.

The Adirondack Park Agency Act, and its rules and regulations should ensure "the optimum overall conservation, protection, preservation, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack Park." (Executive Law §801) We offer the following comments not only in the interest of improving efficiencies at the Agency, but also in the interest of enhancing Park protections.

**SEQRA COMMENTS:**

- Retain all references to ECL Article 8, including any reference to "compliance with SEQR."
  - APA is not in any way "exempt" from SEQR. ECL [8-0103](#)(6), (8) and (9) subject it and all other agencies to the Act, and ECL [8-0107](#) applies fully to it. ECL [8-0111](#)(5)(c) exempts only Class A and Class B projects (except Class B projects reviewed by local government in the Lake George Park) from the EIS requirements of section [8-0109](#)(2).
- Retain Current Sections 586.1 to 4 and 6 to 15. These sections are integral, and essential to understanding the Agency's relation to and substantive and procedural obligations under SEQR.
- Retain Current "586.1 *Purpose of this Part*. This Part implements the State Environmental Quality Review Act (SEQR) and establishes criteria for determining whether actions under consideration by the agency will have a significant effect on the environment."

- Retain Current “586.2 *Definitions*. The definitions contained in section 8-0105 of SEQR and 6 NYCRR 617.2 apply to this Part. The definitions in section 570.3 of these regulations also apply, except when in direct conflict with the definitions governing this Part.”
  - What is the reasoning for deleting reference to 9 CRR-NY 570.3 which contains numerous park-specific definitions that are not duplicative (except for the term *Project sponsor*)
- Retain Current “*General Rule* 586.3 The agency will not carry out, fund, approve or issue a final decision on any action until there has been full compliance with SEQR, this Part, and 6 NYCRR Part 617.”
  - Current 586.3 is particularly important because the language of § 8-0103 *Legislative findings and declaration* (7) is mirrored in the 617 regulations, but the 617 regulation language weakens the intent by using the term *should* instead of *shall* (which, as written, was intended to mean *must*). Please see the comparison of the mirrored language below:
    - § 8-0103. Legislative findings and declaration.
      - 7. It is the intent of the legislature that the protection and enhancement of the environment, human and community resources *shall* be given appropriate weight with social and economic considerations in public policy. Social, economic, and environmental factors shall be considered together in reaching decisions on proposed activities.
    - 617.1 Authority, intent and purpose.
      - (d) It was the intention of the Legislature that the protection and enhancement of the environment, human and community resources *should* be given appropriate weight with social and economic considerations in determining public policy, and that those factors be considered together in reaching decisions on proposed activities. Accordingly, it is the intention of this Part that a suitable balance of social, economic and environmental factors be incorporated into the planning and decision-making processes of state, regional and local agencies. It is not the intention of SEQR that environmental factors be the sole consideration in decision-making.
  - For a more complete fix of the intent issue, in 617.1 (d), change *should* to *must* and remove the second sentence.
- Retain Current “586.4 Certain agency and local actions exempt. An environmental impact statement is not required for review and action upon class A regional projects or class B regional projects by the agency or by local governments acting pursuant to an agency-approved local land use program.”
  - Update section 586.4 to add the Lake George Park takeout

#### Modifications to Type I Actions – Proposed §586.3

- Except as stated below, we would support the proposed amendments to this section which generally provide clearer language than the present provisions and eliminate unnecessary and confusing qualifiers to Type I review.

- In the interests of conforming the Agency's regulations to the requirements of DEC's underlying and otherwise applicable regulations we suggest that the proposed language of §586.3(a) be revised to conform to the language in the DEC regulations (§617.4[a][1]) to read:

*The Type I actions listed in this section are in addition to those listed in 6 NYCRR Part 617. A Type I action carries with it the presumption that it is likely to have a significant adverse impact on the environment and may require an EIS.*

- We do not see a rationale for the proposal to drop certain activities from Type I status. These activities (preparation/approval of local land use regulations [existing regulations §586.5{a}{7}] and revisions to certain Agency regulations §586.5{a}{10}) have a potential for significant adverse impact and are very likely to affect the interests and concerns of a large number of people. Consequently they should retain Type I status.
- The proposed Type I list is an improvement in eliminating certain elements in the current Map amendment provision. However, DO NOT eliminate reference to the existing EIS with regard to the process of amending the Map (or references to the other generics now in the regs).
- We strongly disagree with the deletion of all rulemaking from the Type I list
- We strongly disagree with the deletion of rivers projects and wetlands projects from the Type I list. There must be an analysis of river and wetland projects to determine what types of projects or issues fall through the cracks under the current and proposed regulations. (For example, what projects are not covered under 808, 809, or 810).
  - Retain: Current 586.5 (a) (5) The approval of any rivers project which involves the construction of a boathouse, bridge, public road, trail for motorized open space recreational use, river area utility use that will be located within the applicable setback distance in section 577.6(b) of these regulations, or habitable structure (except a single family dwelling or mobile home), except:
    - (i) projects which are also subject to the jurisdiction of the agency or local government pursuant to section 809 or 808 of the Adirondack Park Agency Act, respectively;
    - (ii) projects which require a certificate of environmental compatibility and public need under article seven or eight of the Public Service law; or
    - (iii) subdivisions of less than five lots, parcels or sites.

- Retain Current 586.5 (a) (8) The transfer of agency jurisdiction over freshwater wetlands pursuant to section 24-0803 of the Environmental Conservation Law, including the determination of wetlands subject to the transfer.

#### Revisions to the Type II List – Proposed §586.4

- We would oppose, as contrary to law, the Agency’s proposed amendments which would include river projects (proposed §586.4[b][3]) and certain wetlands projects (proposed §586.4[b][4]) on the Type II list. Under DEC’s controlling regulations, no agency can include an “action” on the Type II list unless it determines that such action “will in no case have a significant adverse impact on the environment” 6 NYCRR §617.5(b)(1)(emphasis added). We see no basis for such a determination given that the broad spectrum of projects in these two categories can include some with significantly impactful environmental effects. Indeed, the fact that these actions are presently included on the Agency’s Type I List of actions that are more likely to have a significant adverse effect on the environment would belie any new-found conclusion predicting that such activities would, in no case, have such potential impacts.

The Agency’s argument for Type II inclusion -- that the Agency’s review in these cases may be substantially similar to SEQRA review -- is not a basis for Type II treatment under DEC’s controlling regulations. SEQRA attaches to the proposal and not to the process by which the proposal will be reviewed. The only “reviews” which are not subject to SEQRA compliance (certain Class A and B projects reviews under Executive Law §§806, 807 and 808 and certain PSC reviews) are specifically excluded from such review by the SEQRA statute. (ECL§8-0111[5][b&c]).

To conform the regulations with the aforementioned Type II requirements, we recommend that the Agency consider eliminating or, sharply circumscribing, the following existing Type II classifications: recommendations to the governor not treated as Type I (§586.5[b][2]), reviews of rules not identified as Type I (§586.5[b][3]), river project reviews not treated as Type I (§586.5[b][4]), reviews of certain wetland activities (§586.5[b][5]), and reviews of variances and shoreline clustering (§586.5[b][7]). It appears that these existing exemptions may have been premised on the flawed “similarity of review” theory rather than the appropriate standard – predicted lack of significant impacts in any case. It is surprising that the first three “reviews” on the list are either Type I or Type II with no in between

status (unlisted). As part of the Agency's comprehensive reconsideration of the regulations it is appropriate to augment the SEQRA record for these sections and correct provisions which are non-compliant with legal requirements.

On a more general note, it is time for an amendment to the Environmental Conservation Law which removes the APA's Environmental Impact Statement exclusion for Class A and B regional projects and impose new public scoping, alternatives analysis and findings requirements on APA.

#### Additional procedures applicable to Agency Actions – Proposed §586.5

- We support the proposed language set forth in §586.5(a). This provision underscores the importance of full review, including consideration of alternatives, of actions that will potentially affect resources within the Blue Line.
- We would oppose the language proposed in §586.5(d). This provision should be deleted. The provisions of this section are contrary to law and unnecessary.

The Agency cannot delegate its SEQRA obligations to the executive director. The executive director has no substantive decision-making authority regarding permits or other Agency actions. SEQRA case law provides that the Agency responsible for SEQRA compliance cannot delegate its SEQRA duties (review and/or decision-making) to entities or persons who do not have substantive decision-making authority with respect to the underlying action (*see eg. In the Matter of Coca-Cola Bottling Company of New York, Inc. v Board of Estimate of the City of New York et al.*, 72 N.Y.2d 674[1988])

Inclusion of a decision-making timeframe in this section is unnecessary and duplicative of provisions in the controlling DEC regulations. We recommend that the Agency eliminate this section. This is consistent with the Agency's stated goals of eliminating duplicative provisions and its proposed elimination of the procedural sections of the regulations (*see discussion infra*). To the extent that the section somehow proposes to pare down decision-making timeframes provided under the controlling DEC SEQRA regulations it would be contrary to law as being less protective of the public interest than such DEC regulations. 6 NYCRR §617.14(b).

- The proposed section 586.5 is progress, but language from ECL [8-0103](#) and [8-0107](#) must be included.

- Retain: Current 586.6 to 15

These sections are direct and informative. They complete the regulatory edifice. Update them to better conform to Part 617, but do not delete them. These sections are integral, and essential to understanding the Agency's relation to and substantive and procedural obligations under SEQ. R.

### **FOIL COMMENTS**

We support the Agency's stated goal of revising its FOIL regulations to do away with duplications, inconsistencies and old rules which have not kept up with the times. However, this laudable effort should not be at the expense of the "People's Right to Know". Rather than provide line-by-line comments we have attached "black lined" amendments to the Agency's proposed draft. This amended version of the Agency's draft will streamline the regulations without sacrificing important public rights.

The undersigned would like to thank you again for providing our organizations with the opportunity to comment on this pre-release version of the draft amendments. We are available to discuss these comments should you have questions.

Sincerely,

Kevin Chlad  
Director of Government Relations  
The Adirondack Council

Neil Woodworth  
Executive Director and Counsel  
The Adirondack Mountain Club

Dave Gibson and Dan Plumley  
Partners  
Adirondack Wild: Friends of the Forest Preserve

Peter Bauer  
Executive Director  
Protect the Adirondacks!