

<b>Adirondack Park Agency Policy &amp; Guidance System</b>	<b>AGENCY - 1</b>
<b>Topic: APA Policy &amp; Guidance System</b>	
<hr/> <b>John Ernst, Chair</b>	<b>Date: December 15, 2000</b> <b>Amended: July 10, 2009;</b> <b>DATE</b>

**I. Purpose**

The purpose of the Adirondack Park Agency ("APA" or "Agency") Policy & Guidance System is to provide the Agency and its staff with a comprehensive system for developing and maintaining new policies and guidance, as well as a systematic method for revising and updating existing policies and guidance. The system is intended to contain easily accessible, consistent, accurate and legally defensible policy and guidance documents that pertain to and support the programmatic and administrative responsibilities of the Agency. The procedures contained in this document implement the APA Policy & Guidance System.

**II. Background**

The Agency administers complex programs and must have a system for developing and maintaining policy and guidance documents that promote consistent execution of responsibilities, insure adherence to law and rule, and reflect a commonly agreed-upon way of doing business.

**III. Policy & Guidance System**

An organization that routinely provides employees with clearly stated direction promotes consistent and integrated execution of goals and objectives. The APA Policy & Guidance System is designed to fulfill that aim and to also provide the regulated community and other external customers with a clear and consistent picture of the Agency's operational methods and requirements. It is the policy of the Agency that the contents of the Policy & Guidance System be readily available to the Agency's internal and external customers through maintenance of Agency and Executive Director policy and guidance and by availability of all adopted Agency policies and staff guidance on the Adirondack Park Agency web site.

## A. Scope

The APA Policy & Guidance System is intended to incorporate all policy and guidance documents in one consistent series. The system does not incorporate:

- regulations, since a rule making process already exists that is documented in and required by the State Administrative Procedures Act;
- routine operating procedures of narrow interest that affect only a small segment of a Division or Office;
- personnel direction, organizational changes, staff assignments, and appointments.

## B. System Characteristics

The APA Policy & Guidance System has the following characteristics:

- Policies are issued by either the Agency or Executive Director;
- Policies are linked by an APA Policy & Guidance System identifying heading and title and will reflect a consistent look, as reflected in this initial document;
- Policy and guidance development is supported by a standard approach that includes consistent consideration of cross-divisional input;
- Documentation supporting proposed policies is available for review by Agency members and the public at the time of final review;
- The APA Policy & Guidance System index and documents will be electronically available to APA staff on the Agency's internal computer server and to the public on the Agency's web site.

## C. Definitions

The definitions below are the basis for developing policy and guidance documents issued under the APA Policy & Guidance System:

- **Policy** is a broad statement of principles that provides guidance for decision making leading to attainment of the organization's mission or vision. It may identify factors that should be considered, indicate the relative importance of individual factors, and describe limits within which the decision should be made. Policy is not intended to encompass individual decisions that apply only to a particular case or proceeding and do not have general precedential effect.

- **Staff Guidance** documents explain or apply the authorities of the Agency. Guidance may be specific to a particular activity, such as a jurisdictional flyer, or more general plain language explanation of accepted Agency authority and practices. Guidance may be developed by different Division and program units at the Agency. There are currently the following types of Staff Guidance documents: Development in the Adirondack Park (DAP), Division Operational Staff Guidance, and Legal Guidance. Guidance documents will be periodically reviewed with the Agency's Administration Committee and/or appropriate program committee. At any time, a Committee of the Agency may request that staff guidance applicable to the general public be reviewed as a policy pursuant to the procedures set forth herein.

#### **D. Types of Documents**

Agency policies, Executive Director policies, and staff guidance are the types of policy documents that comprise the APA Policy & Guidance System. In all cases, a document must be properly executed and published to the Agency website to be considered final. The criteria for designating proposed policy or guidance are outlined below:

##### **1. Agency Policy**

Agency policy is policy initiated by any Committee of the Agency, reviewed and adopted by the Agency Board, and intended to provide guidance of importance to both staff and affected constituencies of the Agency. Agency policies warrant review and adoption by the full Board for one or more of the following reasons:

- significantly affects the regulated community;
- significantly affects one or more external, governmental entity;
- deals with an issue or process to improve implementation and understanding of the Adirondack Park Agency Act and its implementing regulations;

- directs the delegation of authority to carry out specific responsibilities of the Agency at specific organizational levels.

Agency policies shall be ratified by majority vote of the Agency and shall subsequently be signed by the ~~Chairman~~Chair. Agency policies shall be identified as AGENCY -\_\_ in the upper right-hand corner of each policy, with the appropriate number inserted in the space shown.

## 2. Executive Director Policy

Executive Director policy is policy developed by the Executive Director to standardize program administrative and/or implementation of technical guidelines and procedures. Executive Director policy addresses functions that are developed to achieve efficient and effective administration of Agency work process or operating procedures and Agency workforce within the scope of the Executive Director's delegated responsibilities. They generally affect all Divisions and programs within Agency and relate to staff functions and the effectiveness and efficiency of internal administration.

Executive Director policies shall be developed in consultation with the Agency Chair and Administration Committee Chair and signed by the Executive Director. Executive Director policies shall be identified as EXEC -, in the upper right hand corner of the document with the appropriate number inserted in the space the shown.

## 3. Staff Guidance

### a. Development in the Adirondack Park

*Development in the Adirondack Park: A Guide for Design and Review of Projects in the Adirondack Park (DAP)* is a collection of Agency policies and guidance specifically referenced in Part 574.2 of Agency regulations. It represents guidance from the Deputy Director of Regulatory Program to project sponsors and Agency staff for the purposes of permit review. It provides guidance to project sponsors to assist them in designing a project which avoids undue adverse impact upon the resources of the Park and which will facilitate project approval. It also

provides guidance to staff to facilitate consistent review of projects. As with other guidance, sections or elements of DAP may be elevated at any time as a proposed Agency policy at the request of an Agency Committee, the ~~Chairman~~Chair or Executive Director. Unless elevated for policy review, it will be limited to and reflect the delegated authority of the Deputy Director, Regulatory Programs for the administration of the Agency's regulatory program.

**b. Division Operation Staff Guidance**

This type of staff guidance is intended to provide staff and the public with information and guidance on their interaction with the Agency's various functions and operations. Examples include instructions on materials and procedures needed for jurisdictional inquiries, map amendments, procedures for wetlands mapping and other Agency functions in consultation with the Supervisor of the Resource Analysis and Scientific Services Division (RASS).

**c. Legal Guidance**

Legal guidance is intended to assist staff and the public in the consistent administration of the legal authorities of the Agency. "Citizen's Guide" and relevant Agency flyers provide a summary of Agency jurisdiction and permit requirements. Additional general advice and interpretation of Agency authority from the Counsel or Associate Counsel is provided to staff and the regulated public on a regular basis as reported to the Legal Affairs Committee.

**IV. Development of Agency Policies**

New or revised Agency policies, and all other policies which have the potential to affect the public, will be reviewed ~~ina three step process during three consecutive Agency meetings: (1) initial reading, (2) discussion and review, and (3) final adoption by the Agency and adopted in a public process.~~ In the early stages of policy development, it is critical to establish ~~an understanding of network of staff representing~~ the interests of functional programs and external constituents affected by the policy. ~~A network so formed will help ensure that all pertinent issues and points of view are considered during the development, clearance and approval of policy.~~ Toward that end, the following major considerations must be taken into account as policy is developed:

- Targeted audience;
- Regional impacts and perspectives;
- Anticipated programmatic effects;
- Potential for controversy;
- Legal implications.

Agency policies will be developed ~~in a minimum three meeting cycle~~, with opportunity for public ~~comment and member comment at a minimum of two regular monthly meetings~~ prior to ~~presentation of a policy for~~ Agency approval. Public comment will be solicited by means of the regular Agency agenda, or by other means such as public notice or meetings and consultation with potentially involved constituencies. For purely ministerial changes to policies or changes directed by state law or state policy, notice for public comment shall be through the Agency meeting agenda and posted supporting materials. For non-ministerial changes, and in compliance with SEQRA, if applicable, a noticed public comment period will be held with notice provided on the Agency website and by press release, with notice in the environmental notice bulletin as appropriate.

All public comments will be reported to the Agency at the next meeting addressing the reading of the proposed policy. ~~Other than the Agency meeting agenda, and compliance with SEQRA if applicable, no specific published notice is necessary, with public information and involvement to be facilitated by this deliberate cycle of discussion and public debate in multiple open sessions of the Agency Board. All revisions to Agency policies will use the same public review procedures as outlined here.~~

Below are the key steps for developing and publishing new Agency policies or revisions to existing Agency policies:

### **Step 1 - Policy Initiation**

At the request or direction of the Chair, Committee Chair, Executive Director or Division Director, assigned staff prepare a proposal for new or revised policy, including recommendations on the following:

- the type of policy;
- the reviews necessary to obtain adequate Agency input;
- any background, research, field evaluation or inter- agency consultation needed, including but not limited to consultation with the Local Government Review Board.

### **Step 2 - Policy Review**

- Review and comment by internal Agency reviewers;
- ~~Agency Board or Committee reviews draft policy and identifies issues to be resolved by the assigned staff;~~
- State Environmental Quality Review Act (SEQRA) review, if necessary;

- SEQR compliance completed, response to SEQR public comments during the SEQR process and incorporation of additional revisions into draft final policy by the assigned staff;
- Counsel approval - this approval will include an analysis of whether the proposed document is properly treated as policy or guidance as opposed to a rule, as well as any attendant SEQR issues;

### Step 3 - Policy Approval

- ~~Counsel approval – this approval will include an analysis of whether the proposed document is properly treated as policy or guidance as opposed to a rule, as well as any attendant SEQR issues;~~
- Agency Board or Committee reviews draft policy and identifies issues to be resolved by the assigned staff, if any;
- Relevant Committee followed by full Agency Board approval.

Note that the public process in Step 3 above can be done in one or more Board meetings.

## V. Development of Executive Director Policies

- All proposed Executive Director policies will be reviewed with the Chair and Administration Committee Chair prior to adoption;
- At the request of the Chair, a proposed Executive Director policy will be reviewed by the Agency Board;
- All proposed Executive Director policies will be in full compliance with State administrative, budget and personnel policy, and developed in consultation with the Governor's Office of Employee Relations, the Division of Budget, the NYS Department of Civil Service, or other State organizational unit, as appropriate to the policy under development;
- ~~Executive Director policies do not require multiple readings by the Agency prior to their adoption, except as requested by the Agency Board.~~

## VI. Development of Staff Guidance

### A. Development in the Adirondack Park (DAP)

New, revised, or updated guidance material proposed for addition to DAP will be presented to the Agency Board as appropriate to the level and complexity of materials which have been revised or added. Scheduling presentations on revisions to DAP will be done in consultation among the Chair, Regulatory Programs Committee Chair, Executive Director, Deputy Director of Regulatory Programs and Supervisor of the Resource Analysis and Scientific Services Division.

## **B. Division Staff Operation Guidance**

It is the responsibility of each of the Agency's Division Directors to determine the appropriate format for Operation Guidance and to review existing Operation Guidance on a regular basis. All new procedures will be reviewed with the Executive Director and other managers, as appropriate. Operation Guidance should be documented in writing as part of the Agency's Internal Controls procedures.

## **C. Legal Guidance**

Legal guidance will be developed by the Counsel or the Associate Counsel, in consultation with or at the request of the Chair, Executive Director and/or Executive Staff. Legal guidance is public and intended to assist staff in the consistent administration of the legal authorities of the Agency and inform the public thereof. Legal issues usually arise in a specific factual context and staff guidance is dependent on those specific facts. They help to explain how legal issues are evaluated, but only a specific jurisdictional or permit determination is legally binding on the Agency. Legal guidance will be shared in summary form with all staff and the public through the Agency web site. It will be reviewed on a regular basis with the Agency Legal Affairs Committee. Legal guidance does not include privileged communications from Counsel or Agency attorneys involving such matters as litigation, contracts or personnel, or specific legal issues that arise in the normal course of Agency business. Such privileged communications will not be included in public postings of legal guidance.

## **VII. Format and Minimum Content for Agency Policies and Executive Director Policies**

Each Agency or Executive Director policy will follow a standard format as set forth in this initial policy.

- Purpose - each document developed for incorporation into the Policy & Guidance System shall begin with a concise statement of the purpose of the subject policy or guidance.
- Background - this section should provide a brief statement which places the proposal in context and provides the reader with an understanding of how the proposal will operate vis-a-vis Agency functions.

- Policy - this section shall set forth the specific policy to be implemented by the subject document. Those preparing policies should strive to draft policy statements that are concise, to the point, and easily understood by the Agency, Agency staff, and the public.

- ~~Legal effect - this section shall include the following statement in verbatim format:~~

~~"This policy is not intended to set forth a fixed, general principle to be rigidly applied. Rather, its tenets are to be used solely as guidance and should be applied only after taking into account the specific facts and circumstances of [reference subject of policy]."~~

- Adoption - this section shall consist of a short statement indicating that the Agency has adopted the policy and the date of adoption.

In some cases, additional sections such as definitions unique to each particular policy may also be advisable.

## VIII. System Maintenance and Administration

In order to be effective, the contents of the Agency Policy & Guidance System must be maintained in a coordinated fashion and be readily available to those who need to retrieve a particular policy or guidance document. The responsibility for interpretation and update of this document, and overall management of the APA Policy & Guidance System, shall reside with the Agency's Administration Division. They will be provided to all incoming employees and maintained as on-line references accessible to all staff. Adopted Agency policies will be made available to the public via the Agency web site. The policies and guidance incorporated into this system will be reviewed on a periodic basis with the ~~Chairman~~Chair and Administration Committee Chair.

## IX. Legal Effect

Nothing in this public comment policy should be interpreted to affect or alter any requirements under the State Administrative Procedures Act or SEQRA. ~~This policy is not intended to set forth a fixed, general principle to be rigidly applied. Rather, its tenets are to be used solely as guidance and should be applied only after taking into account the specific facts and circumstances of any guidance or policy matter before the Agency.~~

**X. Adoption**

The Adirondack Park Agency has reviewed and adopted this Policy & Guidance System, first adopted December 15, 2000, as revised July 10, 2009, as further revised and approved by the Agency **DATE**.