



New York State  
Adirondack  
Park Agency

KATHY HOCHUL  
Governor

BARBARA RICE  
Executive Director

## MEMORANDUM

TO: Agency Board

FROM: Christopher E. Cooper, Counsel

DATE: 9 May 2023

RE: Draft revisions to Policy AGENCY-2 Public Comment Policy

At the direction of the Board, staff drafted proposed revisions to the Adirondack Park Agency (Agency) Policy & Guidance System (AGENCY-1) to simplify the procedures for adoption or revision of Agency policy. Following presentation of the proposed revisions at the March Agency meeting, the Board directed staff to hold a public comment period and make edits to the proposed revisions to provide clarification and address Board concerns. The Agency received 588 comments on the Public Comment Policy, all generally opposed to the proposed changes. The preponderance of comments were form letters from the Adirondack Council and Protect the Adirondacks.

Commenters spoke passionately about the function of and need for public comments and involvement in Agency matters. Many expressed that the current policy works well. Nearly all commenters on the oral comment periods stated that a comment period at the beginning of the meeting provides predictability and is more easily attended for those who work, need to arrange for time off from work or alternate caretakers, or need to arrange for access for remote comment. Commenters also sought clarity on the time, duration, rules, and procedures for oral comment periods.

Commenters on the provisions for written comment mostly spoke about the need for adequate time to comment. Most asked for earlier posting of the agenda and materials if a deadline before the meeting were to be set. Commenters also sought clarity on deadlines, such as defining close of business and addressing the impact of holidays. Finally, many commenters expressed concern that the comment opportunity for UMPs had been eliminated.

Staff have edited the proposed revisions to retain 15-minute oral comment periods at the beginning and end of each Agency meeting and provide clear rules and directions for oral comment, including time limits for each commenter. This necessitated the return of the prohibition on certain topics of comment at the initial comment period to prevent *ex parte* concerns and to allow for staff and Board members to adequately consider and respond to comments. Comments provided at the beginning of a meeting on matters being voted on at the meeting often cannot be appropriately contemplated and incorporated into the matter and so are more appropriately provided in advance of the meeting.

Staff have also clarified deadlines for written comment. Deadlines are specified as close of business, defined as 4:30 pm EST consistent with the Agency's posted business hours, with clarification for deadlines falling on a State holiday. To address concerns about the amount of time available to comment on the Agency agenda, staff have included a commitment to post the preliminary Agency agenda two weeks prior to the Agency meeting. Supporting meeting materials will continue to be posted on Thursday of the week prior to the meeting.

Finally, although not eliminated as originally proposed, staff included clarification that, as matters subject to a noticed public comment period per the APA-DEC Memorandum of Understanding for Implementation of the APSLMP, draft Unit Management Plans fall under the provisions for noticed comment periods.

I have reviewed the draft revision and find that AGENCY-2 properly remains Agency policy as opposed to guidance or a rule. I further find that SEQR does not apply to adoption of the revision.