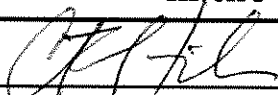


<b>Adirondack Park Agency Policy, Procedures &amp; Guidance System</b>	<b>Agency-7</b>
<b>Topic: Policy on Energy Supply, Conservation and Efficiency in the Adirondack Park</b>	
 <hr/> <b>Curtis F. Stiles, Chairman</b>	<b>Date: November 14, 2008</b>

## I. Purpose

The purpose of this policy is to provide guidance to the Agency and others within the Adirondack Park regarding the Adirondack Park Agency's exercise of its powers, duties and responsibilities under the Adirondack Park Agency Act and the State Environmental Quality Review Act regarding energy supply, conservation and efficiency.

The policy is intended to ensure that the Agency integrates concerns for energy supply, conservation, and efficiency into its Park planning, public education and project review functions.

The policy is also intended to ensure that the Agency incorporates energy conservation and efficiency measures into its facilities, fleet management, and operations.

The policy is intended to protect Adirondack Park resources while recognizing that energy conservation and efficiency is critical to viable, sustainable human communities within the Park and in a global context. Wise use of energy resources and development of alternative energy resources offers an opportunity at a local level to contribute to the reduction of global atmospheric carbon levels.

## II. Background

### A. Current Trends

There is considerable public and private concern about energy use, supply and conservation, climate change, burning of fossil fuels, acid rain and airborne pollutants, and development sprawl. Current and future development in the Park cannot be viewed in isolation, but rather as having a cumulative effect on the quality of Park resources and on the need for reliable and affordable energy supplies. The State of New York has initiated a number of important efforts to address climate change, state energy needs, energy use, energy efficiency, sustainable communities and smart growth. These efforts include, but are not limited to:

1. New York State Executive Order No. 2 (2008) established a state energy planning board and authorized the creation and implementation of a State Energy Plan. The draft energy plan is to be published on or before March 31, 2009 and upon issuance of the Plan, every state agency is to give due consideration to and be guided by the Energy Plan in their decision making.
2. New York State Executive Order No. 4 (2008) established a state green procurement and Agency sustainability program. Each state agency is to develop a sustainability and environmental stewardship program focused in part on cost-effective methods to reduce energy and resource consumption, minimize use of hazardous substances and recycling materials that cannot be reused.
3. New York State Executive Order 111 dated June 10, 2001 (and continued on January 1, 2007) established clear targets and timetables for the acquisition of “green power” by all State agencies and required the submission of agency-specific implementation plans. EO 111 places State purchasing power and market demand behind the State’s coordinated energy plan thereby helping to create long-term economic and environmental benefits.
4. In June 2007, the Governor appointed 20 members to New York’s Renewable Energy Task Force to identify and recommend ways of expanding the state’s use of renewable energy and alternative fuels. The Task Force issued a report that contained 16 recommendations to move New York towards greater renewable energy development and greater energy independence.
5. NYS DEC has established a new office to address global warming and has also administered a smart growth grant program in partnership with the Agency and NYS Department of State.
6. New York State Research and Development Authority (NYSERDA) administers a New York Energy Smart Program and provides design and construction technical assistance and financial incentives relating to green buildings, Energy Star Labeled Homes, Commercial New Construction, and other building efficiency programs. NYSERDA can also provide construction audit inspections that assure that energy standards described herein are being met. NYSERDA has also developed a long-term Environmental Monitoring, Evaluation, and Protection (EMEP) Program on Climate Change.
7. The Agency is one of 20 members of the Adirondack Energy Smart Park Initiative which is a collaborative process addressing energy issues in the Adirondack Park with a vision that the Park would be internationally recognized as a model for sustainable energy use and development.

8. The Agency has participated in Public Service Commission review of new power facilities exempt from APA Act Section 809 review and participated in federal hydropower licensing reviews.
9. On June 23, 2008, the Public Service Commission issued a decision establishing New York's Energy Efficiency Portfolio Standard (EEPS). As part of a statewide program to reduce New Yorkers' electricity usage 15% of forecast levels by the year 2015, with comparable results in natural gas conservation, the Commission established interim targets and funding through the year 2011. The State's utilities are required to file energy efficiency programs, and the New York State Energy Research and Development Authority, as well as independent parties, are invited to submit energy efficiency program proposals for Commission approval.
10. The Agency has focused attention on energy issues in conjunction with Agency Board Meetings by holding public sessions and workshops on "Energy Challenges and Issues Facing the Adirondack Park", "Alternate Energy Systems, A Primer on Emerging Technologies", "Residential Energy Conservation and Efficiency" and "NYPA and NYSERDA State Energy Programs". The Agency has also sponsored training and informational sessions for local officials on energy needs and energy conservation programs.
11. The Agency has conducted energy audits of its Ray Brook facility leading to two energy conservation projects. One project, now completed under a NYPA grant, involved replacing fluorescent lighting in the building with high efficiency ballasts and bulbs and motion detector switches, installing basement wall exterior foundation insulation and installing a separate temperature control for the Agency main computer network server facility, heating domestic hot water with excess heat from the boiler in the winter and with a three-phase electric water tank in the summer. The Agency is also proposing, under NYPA and NYSERDA grants, to install a single row of six ground-mounted two-axis automatic tracking photovoltaic solar panel arrays which will have the combined capacity to produce in excess of 54,000 kilowatt hours of electricity annually. The Agency is also upgrading its vehicle fleet with more fuel-efficient hybrid vehicles.
12. The Agency, in cooperation with NYSDEC and NYS Police, is participating in a study to assess the feasibility of using wood biomass as an alternative energy source to heat the buildings of the three agencies.
13. The Agency is also coordinating regularly with NYSDEC, NYSERDA, NYPA, DPS and NYSDOT to better understand each others regulatory roles and responsibilities relative to electrical power transmission and distribution systems and aesthetic and reliability concerns within highway and utility rights-of-ways.

## B. Agency Regulatory Authorities to Address Energy Issues

The Adirondack Park Agency administers the Adirondack Park Agency Act, the New York State Freshwater Wetlands Act and, for private lands, the New York State Wild, Scenic and Recreational Rivers Act within the six-million acre Adirondack Park. The Adirondack Park Land Use and Development Plan recognizes the complementary needs of all the people of the State for preserving the Park's resources and open space character and of the Park's permanent, seasonal and transient populations for growth and service areas, employment, and a strong economic base.

APA Act Section 801 states that “the basic purpose of this article is to ensure 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”. The concluding paragraph of this section states

“it is the further purpose of this article to adopt and implement the land use and development plan and to provide for the plan's maintenance, administration and enforcement in a continuing planning process that recognizes matters of local concern and those of regional and state concern, provides appropriate regulatory responsibilities for the agency and local governments of the park and seeks to achieve sound local land use planning throughout the park.”

Clearly, the APA Act recognizes the Agency's responsibility to address important existing and emerging local and regional issues such as energy and smart growth.

Among the Agency's duties and powers is the review of certain proposals for new residential, commercial, major public utility, and industrial activities. Under the Adirondack Park Agency Act, Section 809(10) a for Class A or B Regional Project to be approvable, the Agency must determine that each proposed project requiring Agency regulatory approval is:

- consistent with the [Adirondack Park] land use and development plan;
- compatible with the character description and purposes, policies and objectives of the land use area wherein it is proposed to be located;
- consistent with the overall intensity guideline for the land use area involved;
- consistent with the shoreline restrictions, if applicable; and
- The project will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project. In making this determination, the agency shall consider those factors contained in the development considerations of the plan which are pertinent to the project under review.

Clearly, the energy conservation benefits of a project should be part of the weighing of project benefits and impacts required by the statute. While APA Act Section 805(4) does not specifically list “energy” as one of the 37 development considerations, other listed but

related considerations include, but are not limited to: a.(3)(a) air quality, c.(2)(a) adjoining and nearby land uses, c.(2)(g) adequacy of site facilities , d.(1) (a) ability of government to provide facilities and services, and e.(1) (a) conformance with other governmental controls.

These provide a reasonable basis to consider and evaluate energy in the context of proposed APA-jurisdictional projects.

APA Act Section 809(13) describes the Agency's authority to impose reasonable conditions and requirements, in part, to ensure any project for which a permit is granted will be adequately supported by basic services and improvements made necessary by the project.

Most significantly, the Agency is obligated to satisfy the State Environmental Quality Review Act (SEQRA). The statute's legislative findings and declaration [ECL Section 8-0103] include broad environmental intentions, including: "It is the intent of the legislature that all agencies conduct their affairs with an awareness that they are stewards of the air, water, land, and living resources, and they have the obligation to protect the environment for the use and enjoyment of this and future generations." Two of the considerations in the SEQRA framework for environmental assessment include: "(e) any irreversible and irretrievable commitments of resources" and "(h) effects of the proposed action on the use and conservation of energy resources, where applicable and significant".

### **III. Policy on Energy Supply, Conservation and Efficiency**

A. General Policy - The Adirondack Park Agency shall integrate concerns for energy supply, distribution, conservation, and efficiency into its Park planning, public education and project review functions. The Agency shall also implement, to the greatest extent practicable, energy conservation and efficiency measures in its facilities, vehicle fleet and operations.

#### **B. Concerns for Energy Supply, Conservation and Efficiency**

1. Park Planning – the Agency should provide leadership and participation in State-sponsored initiatives and programs to promote sustainable development, smart growth, and energy conservation and efficiency in the Adirondack Park. The Agency should also support State and federal programs addressing climate change, green building design and sustainable ski slopes and other recreational facilities.

The Agency recognizes the need for adequate and reliable energy to support residential, commercial and industrial development within the Adirondack Park. The Agency should encourage the development of alternative and renewable energy sources while recognizing the need to balance protection of natural, scenic, aesthetic, ecological, wildlife, historic, recreational and open space resources of the Park.

2. Public Education – The Agency should serve as a forum for discussion of important energy related issues within the Park. The Agency will also use its programs at its Visitor Interpretative Centers to address such issues as energy conservation and efficiency, climate change, smart growth and sustainable communities. The Agency's website will be used to post information and provide web-links to pertinent information on

the “Energy Conservation Construction Code of New York State”, State-sponsored energy programs, public and private sources of technical and financial assistance, and similar content. The Agency will offer its facilities for use by other State agencies and NGO’s to host workshops or training certification courses on the state building code and energy related issues.

3. Large Scale Project Review – In pre-application meetings and in project review, the Agency should encourage residential, commercial and industrial project applicants to use “green” and “sustainable” building practices and Energy Star products.

During project review, Agency staff should assess the potential impacts, both positive and negative, that the proposed land use and development may have on Park resources, including the availability of adequate, reliable energy sources to the site, the potential impact on the ability of local governments to provide services, whether the project is of a scale, size and design to meet or exceed existing applicable energy conservation and efficiency standards or codes, and potential impact on other affected utility rate payers.

In evaluating project impacts and weighing the potential for undue adverse impacts, the Agency should consider any energy conservation or energy benefits associated with the project as part of the balancing required pursuant to sections 809(e) and 805(4) of the Act. Energy related benefits to be obtained from the project design components, conservation and efficiency measures, and any other energy mitigation features should all be weighed as part of the commercial, industrial, residential, recreational and other benefits of the project under the Act.

Large scale, residential, commercial and industrial permit application forms should make direct reference to the “Energy Conservation Construction Code of New York State” and ask questions to determine that compliance to all applicable requirements of the energy code are, in fact, being met by the project plans and supporting documents, and additionally, how compliance with these requirements will be verified during construction. Additionally, the permit applications should question what, if any, additional conservation and efficiency measures are being proposed by the applicant beyond the minimum building code requirements in the design, construction, inspection, and operation of their project.

For large-scale commercial, industrial and subdivision projects, especially for those targeting second home development, the Agency should include appropriate energy related conditions and findings in permits to assure that the constructed projects meet or exceed the minimum requirements of the “Energy Conservation Construction Code of New York State” and that proposed development is consistent with the long-range energy plan of the State of New York.

For new power generating sources and new and relocated electrical transmission and distribution facilities, the Agency should carefully assess the need for and siting of such facilities while recognizing the need to balance protection of natural, scenic, aesthetic, ecological, wildlife, historic, recreational and open space resources of the Park.

4. Agency Energy Conservation and Efficiency Measures – The Agency administration shall continuously evaluate all of its facilities, fleet management, and operations for opportunities to improve energy conservation and efficiency and shall implement such improvements at the earliest opportunity within Agency budget constraints. The Agency shall also pursue other sources of state and federal funding in order to further this effort, including grants from NYPA and NYSERDA programs. The long range plan of New York State is a 15% reduction in energy usage by the year 2015.

#### **IV. Legal Effect**

This policy is intended to set forth general principles to be applied. Its tenets are to be used as guidance and should be applied after taking into account the specific facts and circumstances set out in the application and project review record for each proposed project.

#### **V. Adoption**

The Adirondack Park Agency has reviewed and adopted this policy effective November 14, 2008 .

By  \_\_\_\_\_  
Curtis F. Stiles, Chairman

11-14-08  
Date