



New York State  
Adirondack  
Park Agency

KATHY HOCHUL  
Governor

BARBARA RICE  
Executive Director

## MEMORANDUM

TO: Agency Board

FROM: Christopher E. Cooper, Counsel

DATE: 4 May 2023

RE: Draft revisions to Policy AGENCY-1 Policy & Guidance System

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 132 public comments on the proposed changes to the Policy & Guidance System, with the majority being generally opposed to the changes and the majority being form letters from Protect the Adirondacks.

Commenters weighed in on the number of meetings necessary to adopt or amend a policy. The majority of commenters called for a minimum 2-meeting cycle, with a comment period between the meetings. Some commenters expressed that the current 3-meeting process is beneficial, and one commenter found the proposal to leave all check and balance mechanisms intact, while being more focused on substance.

Commenters noted that public input is an imperative part of the process and critical to thoughtful and effective development of policies that affect the public. The comments called for clarification on the difference between ministerial and non-ministerial changes and the relevant public notice for each.

Finally former commissioners and chairs noted that the public should be reminded that formal policy is “not a rigid declaration,” and are not subject to the more cumbersome SAPA process.

Staff have added clarification of the difference between ministerial and non-ministerial changes. Specifically, non-ministerial changes are those that affect the substantive rights of the public under the laws and regulations administered by the Agency, such as substantive changes to the Towers Policy. Recognizing the potential substantive impact of these changes on the public, staff also clarified that non-ministerial changes require at least two board meetings for passage, with a public comment period between the meetings, with notice provided on the Agency website, by press release, and in the environmental notice bulletin.

In contrast, purely ministerial changes or changes directed by state law or policy, such as changes to the policy on meeting minutes or changes to make policies gender neutral, can be adopted in one meeting, with public notice provided through the posted meeting agenda.

Finally, the statement in the original policy clarifying that Agency policy is not to be applied as a fixed rule has been retained in the latest draft revision. Unlike a rule or regulation, policy is intended as guidance.

I have reviewed the draft revision and find that AGENCY-1 properly remains Agency policy as opposed to guidance or a rule. I further find that SEQR does not apply to adoption of the revision.