

Adirondack Park Agency Policy, Procedures & Guidance System

AGENCY - 2

Topic: Agency Public Comment Policy

John Ernst, Chair

Date: February 16, 2001

Amended: January 10,
2003; August 10, 2007;

DATE [DRAFT 4 May 2023]

I. Purpose

The purpose of this policy is to encourage public comment in a fair, consistent, and transparent manner.

II. Background

The Agency recognizes the importance of remaining open to the receipt of public comment on issues of concern to the Agency and the Adirondack Park. Comments from the public very often prove invaluable as the Agency deliberates upon specific matters and general issues which come before it in the course of business. On the other hand, in certain circumstances, uncontrolled or ill-timed public comment has the potential to interfere with the conduct of the Agency's business and can give rise to an unfair or unequal exchange of information. As a result, it is necessary to establish an easily accessible and consistent public comment procedure which provides adequate time for the public to comment but does not give rise to unfair circumstances.

III. Agency Public Comment Policy

A. Oral Comments

A public comment period will be available during each open meeting of the Agency for the public to comment generally on Agency operations and topics of interest to the Agency or the Adirondack Park, ~~or matters under Agency consideration~~. The Agency will provide approximately 20-15 minutes for an initial public comment period at ~~or near~~ the beginning of each open meeting of the Agency, after call to order and before any Agency business. The Agency will also provide approximately 15 minutes for a closing public comment period at the end of each open meeting of the Agency, after conclusion of all Agency business. The closing public comment period will take place on the last day of Agency meetings lasting more than one day. If commenting in person, each commenter must sign up for public comment at the meeting location. If commenting remotely, each commenter must sign up for public comment by email to AgencyMeeting.PublicComment@apa.ny.gov or by phone at 518-891-4050, providing their name, the phone number for the phone they

will use to call into the meeting, and whether they are signing up for the initial or closing comment period prior to the Full Agency reconvening at the end of the meeting. If commenting remotely, each commenter must submit their name and the phone number for the phone they use to call into the meeting. Commenters must sign up prior to the Full Board convening the public meeting for the initial comment period or prior to the Full Board reconvening at the end of the day meeting for the closing comment period. Each commenter will be allowed up to 3 minutes to comment. No commenter may cede or yield their time to another commenter. Time for comments and/or for each commenter may be modified at the discretion of the Board Chair depending on the number of commenters.

In order to avoid potential *ex parte* issues and allow for the Agency staff and Board to adequately process and respond to comments, public comments concerning the following topics will be prohibited during the initial public comment period but may be provided during the closing public comment period:

- Any matter which is before the Agency for action at the meeting in question.
- Any matter for which an adjudicatory public hearing has been convened.

The rules for comment periods will be included on the agenda for each Agency meeting and will be enforceable by the Board Chair.

B. Written Comments

1. Noticed Public Comment Period

For matters for which a noticed public comment period is held, written public comments will be accepted only if received by the Agency by the close of business on the last day of the noticed public comment period. All notices calling for public comment shall clearly state the last day that comments will be accepted and that they will only be accepted until the close of business. This section includes, without excluding other matters, comment periods on Unit Management Plan conformance with the Adirondack Park State Land Management Plan (APSLMP) and other matters related to the APSLMP consistent with the procedures laid out in the Memorandum of Understanding between the APA and DEC Concerning Implementation of the APSLMP.

2. Other Matters

For matters and issues for which a noticed public comment period

has not been held, e.g., the Agency meeting agenda, written comments will be accepted for consideration by the Board at an Agency meeting only if received by the Agency by the close of business three business days prior to the Agency meeting. Comments received after this deadline will be considered by the Board at a subsequent normally-scheduled meeting. For normal Agency meetings beginning on a Thursday, this means that written public comment must be received by close of business on the Monday of the same week. Inclusion on the agenda of a matter for which a noticed public comment period has been held does not extend the deadline for comments on that matter beyond the deadline set in section B.1. above.

To allow adequate time for the public to comment on the meeting agenda, the Agency will post a preliminary agenda two weeks before the meeting (i.e., on Thursday two weeks before a normal meeting starting on a Thursday). Following normal practice, the Agency will post supporting materials a week before the meeting (i.e., on Thursday one week before a normal meeting starting on a Thursday). Copies of meeting presentations will be posted the day before the meeting.

3. Proceedings Involving an Adjudicatory Public Hearing

Public comment will not be accepted at or prior to Agency meetings in connection with proceedings for which an adjudicatory public hearing has been convened other than through the adjudicatory hearing process. Those members of the public who wish to comment with regard to such proceedings should seek to have their comments incorporated into the official record of the proceeding.

4. Close of Business

Where used in this policy, close of business shall mean 4:30 p.m. EST.

When a deadline in this policy falls on a State holiday, the deadline will fall on the next business day.

IV. Legal Effect

Nothing in this public comment policy should be interpreted to affect or alter any public hearing schedule established by the Agency, nor shall any element of this public comment policy be construed to extend a public hearing record that has closed by its own terms.

The Board Chair may accept additional public comment at variance with this

policy in the event that they determine that good cause to accept additional comment has been shown.

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.

The Agency has reviewed and adopted this Agency Public Comment Policy, effective February 16, 2001, as revised to include the public comment procedure for unit management plan review, approved by the Agency January 10, 2003; as further revised to amend the public comment procedure for unit management plan review, approved by the Agency August 10, 2007; as further revised to amend the procedures for receipt of oral and written comments, approved by the Agency **DATE**.

ADIRONDACK PARK AGENCY

By:

John Ernst, Chair