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April 21, 2023

Christopher E. Cooper, Counsel  
Adirondack Park Agency  
P.O. Box 99  
Ray Brook, NY 12977  
AgencyMeeting.PublicComment@apa.ny.gov

**RE: APA Policy Revisions Proposed for the APA Policy & Guidance System and for the Agency Public Comment Policy**

Dear Mr. Cooper:

Protect the Adirondacks (“PROTECT”) submits this comment letter regarding the proposed revisions to the Adirondack Park Agency (APA) Policy & Guidance System and to Agency Public Comment Policy, in addition to our prior comment letter dated March 14, 2023. We appreciate that the Agency provided a written public comment period before adopting these revisions. We are still concerned that the Agency is reducing the public’s opportunity to offer written and verbal comments.

**APA Policy & Guidance System**

**The draft Agency Policy & Guidance System should be amended to require that the Board consider proposed “non-ministerial” changes at two public meetings.** This will ensure that the Board Members are directing substantive changes to Agency policy by offering instructions and comments at an initial meeting. Two meetings will also ensure that the public has an opportunity to consider the proposed changes and to offer verbal and written comments before the Agency adopts the changes. The two meetings are necessary so that the public can review new proposals and offer meaningful comments.

In addition, the proposed revisions state that public comments can be submitted on the new or revised policies that constitute “non-ministerial changes”, but there is no minimum comment period established, and no minimum amount of time that the new or revised policies must be available to the Board Members and to the public in advance of an Agency meeting. The draft Agency Policy & Guidance System should be

amended to require that public notice of proposed new or revised “non-ministerial” policy documents must be published by press release, on the website, and in the Environmental Notice Bulletin at least two weeks prior to the Agency meeting in which the policy will be considered by the Board.

While the proposed revisions state that “purely ministerial changes” will be available through “the Agency meeting agenda”, the Agency meeting materials, which contain the substantive documents for an Agency meeting, are typically not posted to the Agency’s website until the afternoon of the Friday before its meeting. Moreover, as a result of the proposed changes to the Public Comment Policy, the window for submitting written comments will be even shorter than it is currently, as discussed in the next section. The draft Agency Policy & Guidance System should be modified to require the Agency to post all proposed new or revised “ministerial” policy documents to the Agency website at least eight days prior to the scheduled Board meeting. That would provide the public with five business days to review the materials in advance of a Board meeting and be able to provide meaningful input.

These above revisions will give more public notice and help to lessen the other proposed changes that are restricting the public’s opportunity to comment on proposed APA policy.

### **Agency Public Comment Policy**

**Verbal Comments:** Protect the Adirondacks opposes changes that reduce opportunities for public comments to the APA Board. We believe that in-person public comment opportunities at the beginning and end of an Agency meeting are necessary. We believe that the public comment period at the beginning of a meeting is important because it’s a set time for the public to appear and make a statement. Many people who live in the Adirondack Park are a 90-minute or 2-hour drive away. The public comment period at the beginning of an Agency meeting allows people to plan their trip to the APA. The APA meetings end at various times, sometimes ending early, sometimes running late. It’s a burden on the public to try and plan for making a public comment when there is no functional set time for the end of an APA meeting. We believe that a public comment period held at the beginning of an Agency meeting is the best practice in keeping with goals of conducting Agency business in an open and transparent manner. Moving the public comment period to the end of a meeting shortchanges the public and fails the openness and transparency tests.

Lastly, we oppose the cap of 20 minutes for public comments. As regular watchers of Agency meetings we have seldom seen total public comments stretch beyond 10 or 15 minutes. We again request that the Agency eliminate the overall time limit on the length of public comments, so that everyone who wishes to provide verbal comments will have the opportunity to do so.

**Written Comments:** The proposed Public Comment Policy moves up the deadline for providing written comments to the Board from noon the day before the meeting, usually held on a Thursday, to “close of business” three days before the Agency meeting. Given the current practice of holding Agency meetings on a Thursday, this means that the APA would require all written comments by an uncertain time on the Monday before the monthly Agency meeting. The

new policy should be explicit with dates and times. We oppose this change because it shortchanges the public's opportunity to submit written comments.

The difficulty with the new policy is that the APA often does not post the meeting materials for the Agency monthly meetings until the Friday afternoon before the Thursday meeting. While the agenda may be released at an earlier point in time, the agenda is not very helpful to the public. The public needs to review the substance of APA meeting materials to submit comments. We need to review Agency draft permits, draft resolutions, staff analysis, and among other materials that are part of the monthly meeting materials. If the Agency wants to change the date for an earlier submission of public comments, it is only fair that the Agency should also amend its procedures to require posting of all materials to the Agency website at least eight days prior to the scheduled Board meeting to allow the public sufficient time to review, research, and submit written comments on the materials. Otherwise, your policy will require the public to research issues and draft comments over the weekend, which is not practical, is unfair, and is not good public agency openness and transparency practices.

We also request that the Agency amend the proposed Public Comment Policy to provide explicit instructions on how and when written public comments will be disseminated to the Board Members for their consideration. It should be concerning to Board Members that a recent decision issued by State Supreme Court in Warren County struck down a permit authorizing use of an aquatic herbicide in Lake George, and one of the reasons for the Court's decision was that the APA staff "failed to accurately summarize the substance" of public comments and that information given to the APA Board was "one-sided." If there is a clear policy stating that Board Members will have access to public comments directly, in advance of making a decision on a matter, then the Board Members and the public can be assured that the APA Board will not be relying upon inaccurate or "one-sided" staff summaries of public comments. It is important for the public to have confidence that public comments have been received and have been reviewed by APA staff and the Board.

On behalf of the Board of Directors of Protect the Adirondacks, please accept our gratitude for the opportunity to share our comments on these proposed policy revisions.

Sincerely,

A handwritten signature in black ink that reads "Claudia K. Braymer". The signature is written in a cursive, flowing style.

Claudia Braymer,  
Deputy Director