

CP-1 / The DEC Policy System

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC POLICY

Issuing Authority: Basil Seggos, Commissioner

Date Issued: 5/29/96

Latest Date Revised: 6/19/2019

I. SUMMARY: This document establishes the DEC Policy System as the official policy document issuance system of the agency and provides guidance regarding the format which policy documents follow.

II. POLICY: The Department of Environmental Conservation (Department) has the policy of ensuring that current, comprehensive policy documents are readily available to the agency's internal and external customers and other stakeholders.

The DEC Policy System enables staff to operate within established guidelines and methods of doing business. This promotes consistent and integrated execution of Department goals and objectives. The DEC Policy System also helps provide the regulated community and other external customers and stakeholders with a clear and consistent framework of the agency's operational methods and requirements.

The DEC Policy System requires clearly defined system elements, criteria regarding appropriate use, and a consistent process for policy development as identified in the following sections.

A. Scope

The DEC Policy System incorporates all policy documents currently in numbered systems.

The system does **not** incorporate:

- Individual actions such as Administrative Law Judge decisions or Commissioner's decisions after hearings.
- Regulations, because a rule making process already exists that is documented in the DEC Rule Making Manual and the State Administrative Procedure Act.
- Routine operating procedures of narrow interest that affect only a segment of a division or office.
- Organizational changes, staff assignments, delegations of authority, and appointments.

B. Definitions

The following definitions are the basis for developing policy documents under the DEC Policy System:

- **Policy** is a statement of the Department's position on relevant issues that provides guidance for decision making, directs actions that must be done, and/or actions that are not allowed. It may identify factors, including relevant laws, rules and regulations, that should or are required to be considered, indicate the relative importance of individual factors, and describe limits within which decisions should be made. Policy may be issued with procedure attached, with procedure referenced, or without procedure.
- **Procedure** is a uniform and consistent series of steps to be followed in completing a specific activity, making a determination, or implementing policy.

C. System Characteristics

The DEC Policy System has the following characteristics:

- Commissioner Policies are issued at the Commissioner level, unless otherwise delegated by the Commissioner.
- Program Policies affecting one or more divisions within one office are issued by the Deputy Commissioner of that office.
- Policies will be issued on the Policy Format (*see Attachment 1 and Attachment 3*) and have a Department identification number (*see Section V, Procedure, below*).
- Policy development will take into account the interests of the agency's internal and external customers and other stakeholders who will be affected by that policy.
- The policy system index and documents will be electronically available to Department staff on the agency's network.

D. Types of Policy

Commissioner Policy and *Program Policy* are the two types of policy that comprise the DEC Policy System.

Commissioner Policy has Department-level implications and warrants Department-level attention for one or more of the following reasons:

- Affects more than one office;
- Significantly affects one or more external, governmental entities;

- Deals with an issue or process of extreme sensitivity;
- Deals with an issue or process on which the Commissioner chooses to take a position or make a statement.

A Commissioner Policy must be approved by the Commissioner.

Program Policy is developed by offices, divisions, or units to standardize program administrative and/or technical guidelines and procedures. Program Policy addresses functions that affect, or are of interest to, internal and/or external customers and other stakeholders.

A Program Policy must be approved by the Deputy Commissioner responsible for the program.

E. Development of Policy

In developing policy, it is critical to take into account the interests of the agency's internal and external customers and other stakeholders who will be affected by the policy. Steps should be taken to ensure that all pertinent issues and points of view are considered during the development, clearance, and approval of policy. The following major considerations are examples of items that might be taken into account as policy is developed:

- Targeted audience;
- Regional impacts and perspectives;
- Anticipated programmatic effects;
- Potential for controversy;
- Legal and ethical implications;
- State Environmental Quality Review Act (SEQR) review;
- Environmental Notice Bulletin (ENB) publication.

The procedure for developing a DEC Policy is outlined in Section V. Procedure.

III. PURPOSE AND BACKGROUND: The purpose of the DEC Policy System is to provide the Department and its staff with a comprehensive system for reviewing, revising, maintaining and rescinding existing DEC policies and for developing and promulgating new DEC policies. The system is intended to contain easily available, consistent, accurate, and legally defensible policy documents that address the programmatic and administrative responsibilities of the Department.

The policy and procedure contained in this document implement the current DEC Policy System and replace policies and procedures contained in:

- Commissioner Policy CP-1 (May 29, 1996, February 24, 1997 and March 24, 2005): "The DEC Policy System,"
- Executive Deputy Commissioner Speilmann's Memo of June 5, 1995: "Revised Guidance Memoranda Policy,"
- O&D Memorandum 91-29: "Program Division Procedures,"
- O&D Memorandum 86-29: "Organization and Delegation Memoranda System," and
- Any other Memorandum that amends Commissioner Policy CP-1 "The DEC Policy System," issued prior to the effective date of this Policy.

To be effective, the policy system should be:

- A comprehensive collection of the Department's important guidance documents;
- Straightforward and flexible, to facilitate the development and maintenance of policy documents;
- Easy to use and access by all Department staff;
- Accepted as a useful resource for Department operations.

Policy documents should:

- Promote consistent execution of responsibilities;
- Ensure adherence to laws, rules, and regulations;
- Reflect a commonly agreed upon way of doing business.

IV. RESPONSIBILITY: The responsibility for interpretation and update of this document shall reside with the Policy Council. The Department's Internal Control Officer is responsible for the overall management of the DEC Policy System.

V. PROCEDURE: The procedures for creating or revising Commissioner Policy and Program Policy, as well as for obsoleting a Program Policy, are listed separately below.

A. Commissioner Policy

The Issuing Authority of any Commissioner Policy is the Commissioner.

Initiation

- Commissioner Policy can be developed or revised upon the direction or conceptual approval of the Commissioner, or one or more Deputy Commissioners.
- All Commissioner Policies will be drafted in the standard format indicated in Attachment 1.

Review

The Commissioner Policy Approval Sheet (*see Attachment 2*) should be utilized throughout the review and approval process.

It is generally advisable to provide a review opportunity to those who will implement, be affected by, or otherwise have a stake or interest in a new or revised policy.

In addition, the following must be accomplished in preparing a Commissioner Policy for release:

- The **Deputy Commissioner for Administration** must determine the administrative implications of the proposed policy, as well as the regional implications of the proposed policy, and ensure review by regional offices if warranted. The Deputy Commissioner for Administration will coordinate any regional review.
- The **Office of General Counsel** must review policies for appropriateness and consistency with laws and regulations.
- The **Policy Council Chairperson** must review policies to ensure the coordination of, and input from, appropriate executive staff.
- Commissioner Policies *must* be published in the ENB as indicated below, *unless* the policy concerns only the internal organizational governance issues or management of the agency and does not have any effect on the rights of, or the procedures or practices available to, the public. In the latter case, the policy *should not* be published in the ENB.
- For those policies published in the ENB:
 - A summary of the draft policy document, with instructions regarding how the full text may be obtained, must be published as a statewide notice in the ENB with a minimum 30-day public comment period. Staff must consider and make a record of the receipt of all public comments.
 - Once the policy is finalized and approved by the Commissioner, a summary must be published in the ENB, with instructions regarding how the full text may be

obtained, at least 30 days prior to the implementation of the policy. Upon publication, at least one copy must be made available for public inspection in the Department's central office and in each regional office. (See Chapter 622, L. 1996; ECL 3-0301(2) (z).)

- A SEQR review of a Commissioner Policy must be done subject to the following qualifications:
 - SEQR compliance is *required* for agency policy-making activities that may affect the environment (6 NYCRR Part 617.2(b) (2)). Therefore, if a proposed policy commits the agency to a definite course of action and affects the environment, an environmental assessment and determination of significance of the proposed policy should be made. If a positive declaration is issued, the policy must go through the SEQR process.
 - SEQR compliance is not required for: (1) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment (Part 617.5 (20)); or, (2) adoption of agency policies and procedures in connection with any action on the Type II list (Part 617.5 (27)).

Approval

Once the policy has been properly reviewed and relevant issues and questions have been resolved, it will be forwarded to the Commissioner, along with the completed Commissioner Policy Approval Sheet. The Commissioner will review the policy, make a final determination on its approval, and indicate approval or disapproval on the Commissioner Policy Approval Sheet.

The date the policy is approved by the Commissioner should be indicated as the "Date Issued" in the policy header. If the policy is subsequently revised, the approval date of the latest revision should be indicated as the "Latest Date Revised" in the policy header and the Commissioner as of that date should be indicated as the "Issuing Authority."

Publication

Once approved, the Commissioner Policy is to be forwarded to the Department's Internal Control Officer, along with the completed Commissioner Policy Approval Sheet.

The Internal Control Officer will:

- Ensure and document that the policy has been approved and that appropriate ENB and SEQR requirements have been considered and addressed;

- Assign the Commissioner Policy identification number and the projected issuance date for the policy. The format for Commissioner Policy identification numbers is described below;
- If applicable, publish as a statewide notice in the ENB the summary of the policy and instructions regarding how the full text may be obtained;
- Print the policy document and distribute to the Commissioner, the Executive Deputy Commissioner, all Deputy Commissioners, Division Directors, and Regional Directors;
- Arrange for publication/inclusion of the policy in the Commissioner Policy Listings on the Department's internal website, In-Site;
- Arrange for proper notification of all employees of the issuance of the policy;
- Update the Commissioner Policy Index and database.

B. Program Policy

The Issuing Authority of any Program Policy is the Deputy Commissioner responsible for the program.

Initiation

A Program Policy can be developed or revised upon the direction or conceptual approval of a Deputy Commissioner or Division Director.

All Program Policies will be drafted in the standard format indicated in Attachment 3.

Review

The Program Policy Approval Sheet (*see Attachment 4*) should be utilized throughout the review and approval process.

The following must be considered in preparing a Program Policy for release. It is generally advisable to provide a review opportunity to those who will implement, be affected by, or otherwise have a stake or interest in a new or revised policy.

- The **Deputy Commissioner for Administration** must determine the administrative implications of the proposed policy, as well as the regional implications of the proposed policy, and ensure review by regional offices if warranted. The Deputy Commissioner for Administration will coordinate any regional review.
- The **Office of General Counsel** must review policies for appropriateness and consistency with laws and regulations.

- The **Policy Council Chairperson** must review policies to ensure the coordination of, and input from, appropriate executive staff.
- Program Policies *must* be published in the ENB as indicated below, *unless* the policy concerns only organizational governance issues or the internal management of the agency and does not have any effect on the rights of, or the procedures or practices available to, the public. In the latter case, the policy *should not* be published in the ENB.
 - A summary of the draft policy document, with instructions regarding how the full text may be obtained, must be published as a statewide notice in the ENB with a 30-day public comment period. Staff must consider and make a record of the receipt of all public comments.
 - Once the policy is finalized, a summary must be published in the ENB, with instructions regarding how the full text may be obtained, at least 30 days prior to the implementation of the policy. Upon publication, at least one copy must be made available for public inspection in the Department's central office and in each regional office. (See Chapter 622, L. 1996; ECL 3-0301(2) (z).)
- A SEQR review of a Program Policy must be done subject to the following qualifications:
 - SEQR compliance is *required* for agency policy-making activities that may affect the environment (6 NYCRR Part 617.2(b) (2)). Therefore, if a proposed policy commits the agency to a definite course of action and affects the environment, an environmental assessment and determination of significance of the proposed policy should be made. If a positive declaration is issued, the policy must go through the SEQR process.
 - SEQR compliance is not required for: (1) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment (Part 617.5 (20)); or (2) adoption of agency policies and procedures in connection with any action on the Type II list (Part 617.5 (27)).

Approval

Once the policy has been properly reviewed and relevant issues and questions have been resolved, it will be forwarded to the appropriate Deputy Commissioner, along with the completed Program Policy Approval Sheet. The Deputy Commissioner will review the policy, make a final determination on its approval, and indicate approval or disapproval on the Program Policy Approval Sheet.

The date the policy is approved by the Deputy Commissioner should be indicated as the "Date Issued" in the policy header. If the policy is subsequently revised, the approval date of the latest

revision should be indicated as the “Latest Date Revised” in the policy header and the Division or Office as of that date should be indicated as the “Issuing Authority.”

Publication

The office or division is responsible for the publication of the Program Policy. It will:

- Assign the Program Policy identification number and the projected issuance date for the policy. The format for Program Policy identification numbers is described below;
- If applicable, publish as a statewide notice in the ENB the summary of the policy and instructions regarding how the full text may be obtained;
- Print the Program Policy document and distribute to the Commissioner, the Executive Deputy Commissioner, all Deputy Commissioners, Division Directors, and Regional Directors;
- Arrange for publication/inclusion of the policy on the office or division’s internal website;
- Arrange for proper notification of all appropriate employees of the issuance of the policy.

C. Commissioner and Program Policy ID Numbers

The following format is used to assign identification numbers to Commissioner Policy and Program Policy documents. It consists of two or three letters representing the issuing organization, followed by numbers reflecting the sequence in which policies are issued. Commissioner Policy

- **CP -**

Program Policy

- Office of Legislative Affairs: **OLA-**
- Office of Media Relations: **OMR-**
- Office of Air Resources, Climate Change & Energy: **OAE-**
 - Office of Climate Change: **OCC-**
 - Division of Air Resources: **DAR-**
- Office of Remediation and Materials Management: **ORM-**
 - Division of Environmental Remediation: **DER-**
 - Division of Mineral Resources: **DMR-**

- Division of Materials Management: **DMM-**
- Office of Natural Resources and Water Quality: **ONR-**
 - Division of Fish and Wildlife: **DFW-**
 - Division of Lands & Forests: **DLF-**
 - Division of Mineral Resources: **DMR-**
 - Division of Water Resources: **DOW-**
 - Division of Marine Resources: **DMR-**
- Office of Public Protection: **OPP-**
 - Division of Forest Protection & Fire Management: **DFP-**
 - Division of Law Enforcement: **DLE-**
 - Emergency Response Coordination Unit: **ERC-**
- Office of General Counsel: **OGC-**
- Office of Hearings & Mediation Services: **OHM-**
- Office of Public Affairs: **PA-**
 - Office of Environmental Justice: **EJ-**
 - Office of Communication Services: **OCS-**
 - Office of the Press: **OP-**
- Office of Regional Affairs and Permitting: **ORA-**
 - Division of Environmental Permits: **DEP-**
- Office of Internal Audit and Investigation: **OIA-**
- Office of Administration: **OAD-**
 - Division of Management & Budget Services: **DMB-**
 - Division of Operations: **DOP-**
 - Office of Employee Relations: **OER-**

D. Obsolete Program Policies

A Program Policy can be made obsolete or rescinded with a signed, written directive from the Deputy Commissioner responsible for that program, stating that the policy is obsolete or no longer in effect. This document should be kept on file with any other documentation related to the policy. Any references to an obsolete or rescinded Program Policy that exist in related documents or the program's web site should be properly updated.

The number of any obsolete or rescinded policy should not be used for any other policy that is subsequently developed.

VI. POLICY COUNCIL

A. Policy Council Members

The Policy Council members include the Executive Deputy Commissioner, Deputy Commissioner for Administration, Deputy Commissioner for Public Protection & Regional Affairs, General Counsel, the Internal Control Officer and the Chairperson. The Council Chairperson will be designated by the Executive Deputy Commissioner. The Council will also maintain at least two additional member-at-large seats, as appropriate (e.g., the Deputy Commissioner and the Division Director of the relevant program area).

B. Responsibilities

The Policy Council will review the effectiveness of the policy system and ensure that policies and procedures continue to promote consistent execution of responsibilities and reflect a commonly agreed upon way of doing business pursuant to the purpose set forth in Section III., Purpose and Background. Specifically, the Policy Council will (1) review policy wording and recommend amendments as required to effectively achieve, reinforce and/or improve policy and procedures, as necessary, (2) recommend training or effective communication to employees of policies and/or procedures, (3) consider recommendations of new policies, and (4) review policies to ensure the coordination of, and input from, appropriate executive staff..

Any recommendations to the Issuing Authority to revise or create new policies shall be consistent with all other Procedures included in this Policy.

The Policy Council Chairperson will schedule all Policy Council meetings in advance and prepare the meeting agenda using the Policy Council Meeting Agenda Format (Attachment 5). Policy Council members must submit any issues or topics for discussion, including related materials, prior to the deadline set by the Chairperson in advance of scheduled meetings.

C. Frequency of Meetings

In order to ensure adequate review of existing and new policies, the Policy Council shall meet in person at least once every two calendar years either on dates fixed at an earlier meeting or more often as necessary as called by the Chairperson. Any Policy Council member may request that the Chairperson schedule a meeting during the year, prior to the next scheduled meeting to address specific topic(s) of concern.

VII. RELATED REFERENCES:

- Environmental Notice Bulletin Guidelines

- DEC Rule Making Manual
- State Administrative Procedure Act

Attachments: Attachment 1 - Commissioner Policy Format
Attachment 2 - Commissioner Policy Approval Sheet
Attachment 3 - Program Policy Format
Attachment 4 - Program Policy Approval Sheet
Attachement 5 - Policy Council Meeting Agenda

Attachment 1 - Commissioner Policy Format

The following format is to be used for all DEC Commissioner Policy documents.

# / Title of Policy	
New York State Department of Environmental Conservation DEC Policy	
Issuing Authority:	
Date Issued:	Latest Date Revised:

- I. Summary:** Give a brief summary or abstract of the contents of the document.
- II. Policy:** Provide a comprehensive and complete statement of the policy. Policy may be issued with procedure attached, with procedure referenced, or without procedure.
- III. Purpose and Background:** Provide the “why” and the “what” of the policy. Why is the policy being created and what need or opportunity does it address? Provide the context which led to the development of the policy and the context in which the policy will be implemented. List the Department identification number of any policy or policies it supersedes.
- IV. Responsibility:** Record the positions and organizations responsible for the policy. This can include who interprets and maintains the policy document, who implements the policy, and who is responsible for the program and/or procedures described in the policy document.
- V. Procedure:** List the actions, if any, necessary to implement the policy. Procedures should be included in a policy document when necessary. However, extensive detailed procedures addressing a specific process of narrow interest need not be included in DEC Policy. These kinds of procedures might be referenced in the document and listed as a related reference.
- VI. Related References:** List any documents that will provide additional information that supports or otherwise clarifies the contents of the policy. This may include other policies in the system, state laws and regulations, handbooks, manuals and procedures too detailed and/or lengthy for inclusion in the policy document.

Attachment 3 - Program Policy Format

# / Title of Policy	
New York State Department of Environmental Conservation DEC Program Policy	
Issuing Authority:	Title:
Date Issued:	Latest Date Revised:

- I. Summary:** Give a brief summary or abstract of the contents of the document.
- II. Policy:** Provide a comprehensive and complete statement of the policy. Policy may be issued with procedure attached, with procedure referenced or without procedure.
- III. Purpose and Background:** Provide the “why” and the “what” of the Policy. Why is the Policy being created and what need or opportunity does it address? Provide the context which led to the development of the Policy and the context in which the Policy will be implemented. List the Department Identification Number of any Policy or Policies it supersedes.
- IV. Responsibility:** Record the positions and organizations responsible for the Policy. This can include who interprets and maintains the Policy document, who implements the Policy, and who is responsible for the program and/or procedures described in the Policy document.
- V. Procedure:** List the actions, if any, necessary to implement the policy. Procedures should be included in a Policy document when necessary. However, extensive detailed procedures addressing a specific process of narrow interest need not be included in DEC Policy. These kinds of procedures might be referenced in the document and listed as a Related Reference.
- VI. Related References:** List any documents that will provide additional information that supports or otherwise clarifies the contents of the Policy. This may include other Policies in the system, state laws and regulations, handbooks, manuals and procedures too detailed and/or lengthy for inclusion in the Policy document.

Attachment 4 - Program Policy Approval Sheet

New York State Department of Environmental Conservation

PROGRAM POLICY APPROVAL SHEET

Policy #:	Title:
Date Developed:	Last Date Revised:
Initiated By:	
ENB Notice required? Yes <input type="checkbox"/> No <input type="checkbox"/> SEQR Review required? Yes <input type="checkbox"/> No <input type="checkbox"/>	

<u>Reviewers (list)</u>	<u>Signature</u>	<u>Date</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
<u>Policy Council</u>	_____ (Chairperson)	_____
<u>Deputy Commissioner for Administration</u>	_____	_____
<u>Office of General Counsel</u>	_____	_____

ENB	To be noticed	Noticed	Not Applicable
SEQR Review	To be completed	Completed	Not Required

DEPUTY COMMISSIONER'S APPROVAL

Approved

Not Approved Reason: _____ Signature: _____

_____ Date: _____

Attachment 5 – Policy Council Meeting Agenda

New York State Department of Environmental Conservation

Policy Council Meeting Agenda

DATE

ATTENDANCE

TITLE	NAME	SIGNATURE
Council Chairperson		
Executive Deputy Commissioner		
Deputy Commissioner for Administration		
Deputy Commissioner for Public Protection & Regional Affairs		
General Counsel		
Internal Control Officer		
[_____]		
[_____]		

All recommendations to **Issuing Authority** must be approved unanimously by **Policy Council** members

AGENDA ITEMS

I. POLICY AMENDMENTS – REVISE/RESCIND/INITIATE

- A.
- B.
- C.

II. POLICY AND PROCEDURES – REINFORCE/COMMUNICATE (e.g. WEBINAR, TRAINING etc.)

- A.
- B.
- C.

III. OTHER

- A.
- B.
- C.

NEXT STEPS (INCLUDE DATES)

- A.
- B.

C.