

OFFICE OF THE COMMISSIONER

New York State Department of Environmental Conservation

625 Broadway, 14th Floor, Albany, New York 12233-1010

P: (518) 402-8545 | F: (518) 402-8541

www.dec.ny.gov

MEMORANDUM

To: John Ernst, Chairman, APA

From: Basil Seggos, Commissioner, DEC

Date: JAN - 5 2023

RE: Inter-Agency Guidelines for Implementing Best Management Practices to Control Invasive Species on DEC-Administered Lands of the Adirondack Park

On behalf of the New York State Department of Environmental Conservation (DEC), I am providing this letter to confirm inter-agency review and approval of the attached **Inter-Agency Guidelines for Implementing Best Management Practices to Control Invasive Species on DEC-Administered Lands of the Adirondack Park** which will serve as an attachment to the APA DEC Memorandum of Understanding on the Implementation of the State Land Master Plan in Appendix F.

The guidelines are intended to help streamline the process for park land managers and partners to effectively mitigate the spread of invasive species that threaten the ecological integrity of our native ecosystems.

Sincerely,



Basil Seggos, Commissioner
Department of Environmental Conservation

Enclosures

cc Katie Petronis, Deputy Commissioner of Natural Resources, DEC
Megan Phillips, Deputy Director of Planning, APA
Peter Frank, Forest Preserve Bureau Chief, DEC
Justin Perry, Invasive Species and Ecosystem Health Bureau Chief, DEC
Josh Clague, Adirondack Forest Preserve Coordinator, DEC



Adirondack Park Agency

KATHY HOCHUL
Governor

BARBARA RICE
Executive Director

RESOLUTION WITH RESPECT TO THE AMENDMENT OF INTER-AGENCY GUIDELINES FOR IMPLEMENTING BEST MANAGEMENT PRACTICES TO CONTROL INVASIVE SPECIES ON DEC-ADMINISTERED LANDS OF THE ADIRONDACK PARK

SEPTEMBER 15, 2022

WHEREAS, the Adirondack Park State Land Master Plan (Master Plan) recognizes the responsibility of the Adirondack Park Agency (Agency) for long-range planning and the establishment of basic policy for State lands in the Adirondack Park in consultation with the Department of Environmental Conservation (Department), including the need to interpret the Master Plan; and

WHEREAS, Section 816 of the Adirondack Park Agency Act requires unit management plans developed by the Department to be consistent with the Master Plan; and

WHEREAS, the Agency has the authority to establish general guidelines and criteria for the management of State lands, and under the State Administrative Procedure Act guidelines, Section 102(2)(b)(iv), to provide direction and guidance to Agency and Department staff on how to implement the guidelines of the Master Plan; and

WHEREAS, the Department has responsibility for the care and custody of State lands governed by the Master Plan and State lands within the Adirondack Park must be managed in compliance with the guidelines and criteria of the Master Plan; and

WHEREAS, the Agency is responsible for general interpretation and revisions of the Master Plan either on its own initiative or at the request of the Department, and the Agency and the Department entered into a "Memorandum of Understanding on the Implementation of the State Land Master Plan," (APA/DEC MOU) most recently revised in March 2010, which defines a process for interpreting the Master Plan; and

WHEREAS, Appendix F to the APA/DEC MOU provides "Inter-Agency Guidelines for Implementing Best Management Practices to Control Invasive Species on DEC-Administered Lands of the Adirondack Park;" and

WHEREAS, the guidelines streamline the process by which the Department and its agents can efficiently treat invasive species through the implementation of best

management practices that conform to the guidelines and criteria set forth in the Master Plan and apply the Master Plan's general guidelines for particular classifications of lands within the Adirondack Park; and

WHEREAS, the APA/DEC MOU contemplates that it may be necessary from time to time to amend the MOU and/or the appendices thereto, and places responsibility on the staff of the agencies to bring recommendations for amendments to the Agency and the Department upon a consensus of such staff members that such action is appropriate; and

WHEREAS, Agency and Department staff jointly propose to amend Appendix F to the APA/DEC MOU to:

- Allow DEC in consultation with APA to determine which species can be managed, including Part 575 prohibited and regulated species;
- Enable DEC and/or its agents to propose best management practices through the work plan and permitting process;
- Provide for flexible and timely response to new species of concern and utilization of the best available science and treatment methodologies

WHEREAS, this proposed amendment to Appendix F constitutes an interpretation of the Master Plan and, for purposes of the State Environmental Quality Review Act, is a Type II action pursuant to 6 NYCRR § 617.5(31).

NOW, THEREFORE, BE IT RESOLVED, that the Adirondack Park Agency finds that the amended Appendix F to the APA/DEC MOU, entitled "Inter-Agency Guidelines for Implementing Best Management Practices to Control Invasive Species on DEC-Administered Lands of the Adirondack Park," conforms to the Adirondack Park State Land Master Plan; and

BE IT FINALLY RESOLVED, that the Agency authorizes its Chairperson to advise the Commissioner of Environmental Conservation of the Agency's determination in this matter.

Resolution adopted on this date, September 15, 2022.

AYES: Ken Lynch, Benita Law-Diao, Dan Wilt, Mark Hall, Zoe Smith, John Ernst, Brad Austin, Matt Tebo.

NAYS: None.

ABSENT: Andrea Hogan, Arthur Lussi, Joe Zalewski.

**Inter-Agency Guidelines for Implementing
Best Management Practices to Control Invasive
Species on DEC-Administered Lands of the
Adirondack Park**

Approved January 25, 2023

Prepared by:

NYS Department of Environmental Conservation
625 Broadway
Albany, NY 12233

Adirondack Park Agency
PO Box 99
Ray Brook, NY 12977

CONTENTS

| | |
|---|----|
| Introduction | 4 |
| Goals and Objectives of the Guidelines..... | 6 |
| Potential Environmental Impacts..... | 6 |
| Definitions | 7 |
| Documenting the Extent of Invasive Species..... | 9 |
| Procedures for Implementation | 9 |
| Effect of This Action | 10 |
| Responsibilities | 10 |

INTRODUCTION

The negative impacts of all taxa of invasive species on natural communities are well documented. Colonization and unrestrained growth of invasive species cause the loss of biodiversity, interruption of normal hydrology, suppression of native vegetation, and significant aesthetic, human safety and economic impacts.

These guidelines apply to Department of Environmental Conservation (DEC or Department)-administered lands (defined in the Adirondack Park Agency Act as “the earth, on or below the surface of the ground, including water and air above...”) within the Adirondack Park, which are comprised primarily of Forest Preserve lands. The Forest Preserve is protected by Article XIV, Section 1 of the New York State Constitution. This Constitutional provision, which became effective on January 1, 1895 provides in relevant part:

The lands of the state, now owned or hereafter acquired, constituting the Forest Preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, or shall the timber thereon be sold, removed or destroyed.

The Department has jurisdiction over the Forest Preserve, and its management of these lands must conform with this Constitutional provision.

Management of the Adirondack Forest Preserve is guided by the Adirondack Park State Land Master Plan (Master Plan), which was initially adopted in 1972 by the Adirondack Park Agency (Agency or APA), with advice from and in consultation with the Department, pursuant to Executive Law §807 (recodified as Executive Law §816). The Master Plan provides the overall general framework for the development and management of State Land in the Adirondack Park. The Master Plan sets forth the following classifications for State Land within the Adirondack Park: Wilderness, Primitive, Canoe, Wild Forest, Intensive Use, Historic, State Administrative, Wild, Scenic and Recreational Rivers, and Travel Corridors, and sets forth guidelines for management and use of each of these major land classifications.

A 2016 update to the Master Plan recognizes invasive species as a documented threat to the ecological integrity of the Forest Preserve. To protect natural resources, minimize economic impact, preserve aesthetic value and promote human safety, the Master Plan provides in relevant part:

Efforts should be made to restore and protect the native ecological communities through early detection and rapid response efforts to eradicate or control existing or newly identified invasive species populations. Subject to existing policy and guidelines, the Department will use the basic tools needed to preserve, protect and restore the natural native ecosystems of the Forest Preserve.

Executive Law §816 requires the Department to develop, in consultation with the Agency, individual unit management plans (UMPs) for each unit of land under the Department’s jurisdiction which is classified as one of the nine classification categories set forth in the

Master Plan. The UMPs must conform to the guidelines and criteria set forth in the Master Plan and apply the Master Plan's general guidelines for particular classifications of state land within the Adirondack Park. References to invasive species will be included in UMPs as they are updated or revised.

Executive Law § 816(1) provides in part that “the master plan for management of state lands and the individual management plans shall guide the development and management of state lands in the Adirondack Park.”

Article XIV, Section 1 of the New York State Constitution does not specifically address the issue of invasive species. However, since Article XIV directs that Forest Preserve lands be “forever kept as wild forest lands” and prohibits the removal or destruction of timber, care must be taken to ensure that decisions to eradicate invasive species do not result in a material cutting of Forest Preserve timber or adversely impact the wild forest character of Forest Preserve lands. However, in recognition of the significant threat posed by invasive forest pests, Environmental Conservation Law §9-1303 grants the Department or its duly authorized agents authority to control and prevent the spread of forest insects and forest tree diseases including “discretionary authority to poison forest areas in or near sections infested by insect pests or forest tree diseases.”

Surveys of DEC-administered lands document the continued introduction and expansion of invasive species into and throughout the Adirondack Park. Experience has shown that eradication of an invasive species becomes progressively more difficult, more expensive, and less effective the longer the species is allowed to grow and spread without intervention, and therefore it is critical for the Department and Agency to address potentially harmful invasive species occurrences in an expeditious manner.

The goal of these guidelines is to establish a process for reviewing invasive species management on DEC-administered lands. Management for invasive species must follow best management practices (BMPs), reviewed by the Department and the Agency as part of the Work Plan process described herein, to ensure such management activities do not alter the “forever wild” character of the Forest Preserve beyond the alteration that may be created by choosing a no action alternative.

These guidelines are intended to harmonize the constitutional “forever wild” provisions with the overriding directive in the Master Plan to manage Forest Preserve lands for their protection and preservation through the application of BMPs and compliance with permitting requirements. BMPs described in Work Plans must be pursuant to, and consistent with, relevant provisions of the New York State Constitution, the Environmental Conservation Law, the Executive Law, the State Environmental Quality Review Act (SEQRA), the Master Plan, and all other applicable rules and regulations, policies, and procedures.

These guidelines were first adopted in 2007 and amended five times (2010, 2012, 2015, 2018, and now 2022). In addition to the changes made to the guidelines with the amendments, each of these editions updated the list of species that could be managed and the BMPs allowed for such management. Over the years the list of both species and tools has grown. The procedure for amending the guidelines did not enable staff to react quickly as new species came to the Park and new tools and methodologies were

developed to address these invasive species.

GOALS AND OBJECTIVES OF THE GUIDELINES

The goals and objectives of this document are to protect and restore native ecological communities on DEC-administered lands in the Adirondack Park and prevent the spread of invasive species off of DEC-administered lands. The guidelines seek to achieve this through early detection and rapid response (EDRR) efforts that address existing or newly identified invasive species infestations, and to manage established invasive species populations which cause, or have the potential to cause, impacts to the ecosystem within which they exist, or elsewhere in the Park.

By following these guidelines, the Department and its agents can manage invasive species infestations, and in some cases, locally eradicate them. Eradication, however, is not always an achievable or realistic goal. For large or well-established populations, containment or suppression may be a more appropriate management goal. Implementation of these guidelines and BMPs will help to ensure that the goals are met and that natural processes continue unabated, economic impacts are minimized or avoided, and human health is protected.

These guidelines were developed to define and streamline the process by which the Department and its authorized agents can efficiently treat invasive species through the implementation of BMPs that conform to the guidelines and criteria set forth in the Master Plan and apply the Master Plan's general guidelines for particular classifications of State Land within the Adirondack Park, as well as by meeting permitting requirements.

POTENTIAL ENVIRONMENTAL IMPACTS

Invasive species have the potential to cause significant damage to the native ecological communities of the Adirondack Park. The removal of invasive species reduces the potential for destruction and harm to New York's environment, economy, and human health.

Any control action has the potential for environmental impact and the benefit must outweigh the risk of no action. (For example, the use of pesticides may cause mortality to non-target species and cutting trees may have both visual and ecological impacts on the landscape.) Although the BMPs and species-specific control methods seek to mitigate these impacts, the potential for impact must be carefully evaluated through the Work Plan and permitting process and must outweigh the risks associated no-action alternative. Protection, preservation, and restoration of native flora and fauna in the Adirondacks are outcomes worth reasonable associated risk.

DEFINITIONS

APA/DEC Memorandum of Understanding (MOU): Memorandum of Understanding between the Adirondack Park Agency and the Department of Environmental Conservation Concerning Implementation of the State Land Master Plan for the Adirondack Park, dated March 10, 2010, and any updates or revisions thereto.

Best Management Practice (BMP): For the purposes of this document, a practice, or combination of practices, that is determined to be an effective and practicable (including technological, economic, and institutional considerations) means of eradicating, containing, or controlling an invasive species population and/or reproduction potential to a level compatible with goals while avoiding or minimizing non-target impacts and addressing site restoration goals, while conforming to all applicable state laws and the Adirondack Park State Land Master Plan.

DEC- Administered Lands: Wilderness, Primitive, Canoe, Wild Forest, Intensive Use, Historic, State Administrative, Wild, Scenic and Recreational Rivers, and Travel Corridors under the jurisdiction of the Department within the Adirondack Park, which includes but is not necessarily limited to the Forest Preserve.

Early Detection and Rapid Response (EDRR): A systematic effort to detect and eradicate, contain, or control a potentially invasive non-native species introduced into an ecosystem while the infestation of that ecosystem is still localized.

Invasive Species: A species that is non-native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

New York iMapInvasives: An on-line, collaborative GIS-based invasive species database and mapping tool serving as the official state invasive species database used for reporting invasive species, recording treatments and success and mapping invasive species distributions. New York iMapInvasives is managed by the Invasive Species Database Program at the New York Natural Heritage Program (NYNHP), which is a partnership between SUNY College of Environmental Science and Forestry and the Department.

Partnership Agreement: An agreement between the Department and an individual, organized group or municipal entity in the form of either a Volunteer Stewardship Agreement, Temporary Revocable Permit, Adopt-a-Natural Resource Agreement, or contract or sub-contract.

Work Plan: A description of the proposed management action. Types of Work Plans include: Standard Work Plan or Rapid Response Work Plan; each are described below.

Standard Work Plan: A detailed description of work intended to cover the routine management of one or more invasive species control sites over a period of five years. A Standard Work Plan must include the following:

1. An Environmental Assessment Form Part 1 that summarizes all sites, provided that any other documents required under SEQRA are also submitted;
2. the GPS coordinates for all of the sites as well as other locational information for the sites such as DEC Region, State Land Unit, County, and Town;
3. an estimate of the size of the infestations and the year the sites were last surveyed;
4. target species impacts and concerns;
5. a Natural Heritage review for nearby rare, threatened, or endangered species that may be impacted by treatment;
6. the timeframe for when the work will be undertaken and treatment priorities;
7. proposed BMPs and an assessment of treatment alternatives;
8. monitoring provisions and reporting of treatment to iMapInvasives (to occur within one year of treatment); and
9. any other information required by Agency or Department permits.

Rapid-Response Work Plan: A detailed description of work intended to allow for swift action to control a new site (no greater than 10 acres) (such as a new species, new location, or new management technique, etc.) that is not covered under a previously approved Standard Work Plan. Approval of a Rapid-Response Work Plan will be valid for one year, after which a Standard Work Plan is required. Approved Rapid-Response Work Plans can be implemented immediately upon being noticed in the ENB. A Rapid-Response Work Plan must include the following:

1. An Environmental Assessment Form Part 1, provided that any additional documents required under SEQRA are also submitted;
2. a brief site description;
3. the GPS coordinates for the site as well as other locational information for the site such as DEC Region, State Land Unit, County, Town, and surrounding land uses;
4. an estimate of the size of the infestation and the year the site was last surveyed;
5. a list of target and non-target species and target species impacts and concerns;
6. a Natural Heritage review for nearby rare, threatened, or endangered species that may be impacted by treatment;
7. the timeframe for when the work will be undertaken and treatment priorities;
8. proposed BMPs, an assessment of treatment alternatives, and history of past treatments on the site (if any);
9. monitoring provisions and reporting of treatment of iMapInvasives (to occur within one year of treatment); and
10. any other information required by Agency or Department permits.

DOCUMENTING THE EXTENT OF INVASIVE SPECIES

An inventory of invasive species that are present and a measure of the extent of the invasive species infestation is essential to determining the correct course of action. The Department and authorized agents conduct ongoing routine, systematic surveys to identify and quantify the extent of invasive species on DEC-administered lands in the Adirondack Park. The results of surveys are maintained by DEC and within iMapInvasives, and may be utilized in UMPs. When possible, when UMPs are updated, the best available invasive species distribution information should also be updated.

PROCEDURES FOR IMPLEMENTATION

Management of invasive species by Department land managers and authorized agents must be in accordance with BMPs reviewed by Department and Agency staff as part of the Work Plan approval process. Agreements between the DEC and authorized agents through Partnership Agreements (and an approved Work Plan and necessary permits) are required to conduct invasive species management

The Work Plan must contain BMPs that outline appropriate treatment methods that conform to state laws and the Master Plan. Work Plans will be noticed in the Environmental Notice Bulletin (ENB) and Standard Work Plans will be subject to a 14-day public comment period prior to approval. Stakeholder groups and other agencies may be consulted in the development or review of BMPs.

The Department, in consultation with the APA will determine which species can be managed pursuant to these guidelines through the Work Plan approval process. In addition to the species prohibited and regulated under 6 NYCRR 575.3 and 575.4, this guidance will pertain to species that have been deemed to be invasive by DEC and APA and for which control or eradication is warranted.

Management practices will be implemented through a Work Plan with corresponding SEQRA compliance and/or complementary permits from the Department and/or Agency, when necessary.

The Department (or its authorized agents) will develop a Standard or Rapid Response Work Plan and submit the Work Plan to the Department (Director of the Division of Lands and Forests or designee) and simultaneously to the Agency (Deputy Director, Planning or designee). Work Plans will demonstrate the select management actions, which may vary depending on BMPs and specific conditions, are the minimum necessary to achieve established objectives. Treatments may vary depending upon a variety of site-specific conditions and land classification.

The Agency will evaluate the Work Plan through the State Land Consultation process to determine if the proposal conforms to the Adirondack Park State Land Master Plan, within 30 calendar days of it being submitted for Standard Work Plans and within 14 calendar days for Rapid-Response Work Plans.

The Director of the Division of Lands and Forests, or a designee, will review Standard Work Plan requests within 30 calendar days of submission and Rapid-Response Work

Plan requests within 14 calendar days to confirm that they fulfill the requirements described in the Definitions section above. Prior to implementation of Standard Work Plans for the treatment of invasive species the activity must be posted in the Environmental Notice Bulletin (ENB). Rapid-Response Work Plans may be implemented immediately upon posting in the ENB. The Director of the Division of Lands and Forests, or a designee, will issue a written approval to commence work once the appropriate ENB posting period, specified in the Definitions, has occurred. To the extent that the terms of this Guidelines and the APA/DEC MOU differ as to timelines, these Guidelines will control.

If the Agency determines during its review of a proposed Work Plan that the proposed management activities may potentially have a material effect on the character or use of the land, water or the desirable vegetation thereon or within, Department and Agency staff will then consult to determine if the activity should be addressed as part of an individual UMP or UMP Amendment. If the Agency determines that a permit under the Freshwater Wetlands Act is required, then it may require a permit application and additional information as needed to review the permit application. If the Department determines that a permit is required under ECL 9-1303, 6 NYCRR Part 608, or any other applicable law or regulation, it may require an application or additional information as needed to review a permit application in addition or independent from this process.

EFFECT OF THIS ACTION

Adoption of the Guidelines and implementation through the UMP, and Standard or Rapid-Response Work Plans, and/or permitting gives the Department the tools needed to preserve, protect and restore the ecological integrity of DEC- administered lands within the Adirondack Park.

RESPONSIBILITIES

The responsibility for interpretation and update of these Guidelines and overall management shall reside with the Department and the Agency. The Department and its authorized agents shall be responsible for management of invasive species on DEC- administered lands while the Agency will be responsible for providing review of, and advice on, the consistency of the management activities and proposed actions in UMPs with the Master Plan.