

**THIS GENERAL PERMIT AMENDS AND REPLACES GENERAL PERMIT 2002G-3A  
ISSUED ON May 12, 2005**

 <b>Adirondack Park Agency</b>  P.O. Box 99 • Ray Brook, New York 12977 (518) 891-4050 • (518) 891-3938 www.apa.ny.gov	APA General Permit 2002G-3AAR	Effective Date: April 17, 2009
	In the Matter of the Issuance of a General Permit for Certain Minor Regulated Activities in APA- Jurisdictional Freshwater Wetlands	

**SUMMARY AND AUTHORIZATION**

This general permit is issued pursuant to the Freshwater Wetlands Act (Environmental Conservation Law, Article 24) and the Adirondack Park Agency Act (Executive Law, Article 27, including Section 809(13)(e)) to individual landowners and to State, county and municipal agencies, on conditions, for certain regulated activities occurring in wetlands subject to Adirondack Park Agency (APA) jurisdiction or in adjacent areas where the activities could substantially impair jurisdictional wetlands. Specific approval must be obtained for each regulated activity pursuant to the process established in this permit.

This general permit only applies where the sole basis of Agency permit jurisdiction over the activity in question is due to involvement of wetlands pursuant to Section 810(1) of the APA Act and/or the activity constitutes a “regulated activity” pursuant to 9 NYCRR 578.3 (n) in or adjacent to wetlands.

This general permit may not be used if:

- a) the project also requires Agency approval due to permit jurisdiction over a subdivision or new land use or development under Sections 810 or 814 of the Adirondack Park Agency Act, or
- b) the project constitutes a “rivers project” under the New York State Wild, Scenic and Recreational Rivers System Act and 9 NYCRR Part 577, or
- c) the project site is subject to State Land Master Plan or Unit Management Plan guidelines for management use, or
- d) the activity in question is limited or prohibited by a prior Agency determination or permit.
- e) the activity requires a variance under Section 806 shoreline restrictions.

This renewed and amended general permit is in effect from the date of renewal unless otherwise modified or revoked by the Agency.

Regulated Activities Subject to this General Permit

This general permit authorizes, on conditions, the following regulated activities occurring in APA-regulated wetlands or in adjacent areas where the activities could substantially impair regulated wetlands:

1. Replacement or repair of existing or installation of new private or public underground utilities through wetlands with no permanent fill in or loss of wetlands. Installation activities may include placement of suitable clean soil or stone for backfill or bedding of the utility lines. Authorized utility lines include: pipes or pipelines for the transportation of gaseous, liquid or slurry substances; or any cable, line, fiberoptics or wire for the transmission of electrical energy, telephone, telegraph, radio or television communications. The term utility line shall also include pipes conveying drainage from one area to another. This permit only authorizes temporary construction disturbance and restoration of the wetland.
2. Installation of temporary work pads, access or detour drives, or water control structures through wetlands with no permanent fill. This permit only authorizes temporary construction disturbance and restoration of the wetland.
3. Culvert repairs, replacements or extensions or new culvert installations with less than 300 square feet of permanent wetland excavation or fill per culvert site and compensatory wetland mitigation is addressed.
4. Widening or minor improvements to pre-August 1, 1973 roadways, bridges, driveways or trails involving less than 300 square feet of permanent excavation or wetland fill per site and compensatory wetland mitigation is addressed. The improvements may not change the historic use of the facility or property.
5. Temporary grading and filling in wetlands associated with access for survey and exploratory activities with no permanent fill. This permit only authorizes temporary construction disturbance and restoration of the wetland. Survey and exploratory activities include: instrument survey, archaeological and paleontological surveys, seismic operations, drilling of test wells or bore holes, excavation of test pits, core sampling, soil sampling and other similar exploratory-type activities. The survey and exploratory activities themselves are non-jurisdictional.
6. Replacement or repair of existing or installation of new private or public overhead utility poles and lines with access through wetlands with no permanent fill in or loss of wetlands. Installation activities may include replacement of existing power poles, in-kind in wetlands or replacement poles that may be taller but do not to exceed 40 feet in height;

as measured from the ground surface at the base of the pole to the top of the pole. Activities may also include permanent placement of screw anchors and guy wires in wetlands and temporary access through wetlands to access the new or replacement pole locations. New pole placements are generally not allowed in wetlands and may only be authorized on a limited basis where placement in wetlands is unavoidable and as specifically authorized herein.

### **ADIRONDACK PARK AGENCY JURISDICTION**

Any filling, dredging, or excavation in APA-jurisdictional wetlands or any other activity which substantially impairs the functions of or benefits derived from freshwater wetlands, including activities in areas adjacent to wetlands, within the Adirondack Park is subject to Agency jurisdiction as a “regulated activity” under the Freshwater Wetlands Act and 9 NYCRR Part 578.3(n)(1) and(2) and requires an Agency permit.

In addition, all land uses and development and all subdivisions of land involving wetlands, except for forestry uses (other than timber harvesting that includes a clearcutting of any single unit of land of more than 25 acres), agricultural uses, public utility uses, and accessory uses or structures (other than signs) to any such use or any preexisting use are Class A regional projects pursuant to Section 810(1) of the APA Act in all land use areas except Industrial Use.

### **PROCEDURES**

General Permit Application Review Process:

1. To utilize this APA General Permit, the project sponsor must fully complete the application, entitled “Application and Certification For Certain Minor Regulated Activities in APA-Jurisdictional Freshwater Wetlands.” The application will not be accepted for review unless the application is complete, including all of the required attachments. The application materials may be submitted in person to the Agency or by mail at:

Adirondack Park Agency  
Deputy Director, Regulatory Programs Division  
Route 86, PO Box 99  
Ray Brook, New York 12977

2. Within fifteen calendar days of receipt of the application, the APA will review it for completeness, confirm APA jurisdiction, determine whether the proposed activity meets the eligibility criteria and contact the project sponsor to arrange a meeting at the site of the proposed activity. The meeting does not have to take place within the fifteen day period, but should be scheduled at the earliest mutually agreeable time. If the application is incomplete, the Agency will inform the project sponsor by certified mail indicating

what specific information is missing. On the day the Agency receives the missing information from the project sponsor, a new fifteen calendar-day review period begins for determining completeness.

3. Within ten business days of the site visit or when the application is deemed complete, whichever is later, the Agency will by certified mail issue a signed APA General Permit 2002G-3AAR Application and Certification approving the activity provided it meets all eligibility criteria listed below.
4. Where an application has been determined to be ineligible for treatment under this General Permit, the Agency will send a letter by certified mail briefly explaining why the activity was ineligible and stating that the activity may be reviewed again upon receipt of a new application for an individual major permit application.
5. Eligibility Criteria:

Upon office and/or field verification, the proposed activity must be determined by APA staff to:

- a. be consistent with the information contained in the application;
  - b. not have been partially or wholly undertaken;
  - c. not require additional detailed engineering or environmental studies to more fully demonstrate no undue adverse impacts on important wetland resources of the Park;
  - d. not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the economic and social benefits that might be derived therefrom;
  - e. not adversely affect historic or archeological resources or rare, threatened or endangered species, and
  - f. be capable of meeting the conditions contained within this General Permit and as stated in "Section C. - Conditions" of the Application and Certification form.
6. By signing the application, the project sponsor:
    - a. confirms that the information contained in the application is true, accurate and complete;
    - b. agrees that a determination of ineligibility for an APA General Permit by the Deputy Director of Regulatory Programs for any reason is considered final and cannot be appealed;

- c. agrees that if a jurisdictional activity has been determined to be ineligible for approval under the APA General Permit Program, the appropriate individual permit application must be submitted to the Agency and a permit issued before that activity can be undertaken;
- d. agrees that the time period for review for completeness of any subsequent application for an individual permit will not begin to run until the Agency has received the individual permit/order application;
- e. agrees that there is no default approval of the APA General Permit if the time periods specified herein are not complied with by the APA. The Agency will make every effort to provide timely review, but field visits are weather dependent; and
- f. agrees to allow Agency staff, on reasonable notice, to access the project site in order to review the proposed project.

#### **FINDINGS OF FACT**

1. Freshwater wetland covertypes affected by the activities authorized in this permit include all those found in the NYS Freshwater Wetlands Act (ECL Article 24): wetland trees, wetland shrubs, emergent vegetation, rooted, floating-leaved vegetation, free-floating vegetation, wet meadow vegetation, bog mat vegetation and submergent vegetation. These covertypes form the wetlands found in the Agency's Rules and Regulations (9 NYCRR Subtitle Q, §578): deciduous swamp, coniferous swamp, shrub swamp, emergent marsh, deep water marsh, wet meadows and bog.
2. The wetlands affected by the regulated activities described herein provide important benefits valued by society such as flood and storm control and abatement, fish and wildlife habitat, surface and subsurface water resource protection, recreation, erosion control, education and scientific research, open space and aesthetics, and nutrient cycling.
3. Where the sole basis of Agency permit jurisdiction is for minor activities involving or affecting jurisdictional wetlands, project sponsors must currently go through a major permit process even when those activities involve no permanent wetland fills or minor fills with compensatory wetland mitigation. Such activities usually have de minimus impacts on existing wetland resources and are routinely approved, on conditions, by the Agency. The full major permit process is labor intensive and time-consuming for the project sponsor and Agency staff, and approvals can take several or more months. The simplified process authorized herein will allow project sponsors to receive more timely permits and will allow Agency staff more time to focus on projects that have greater potential for significant impacts to Park resources.

4. Temporary (lasting less than one construction year) filling or disturbance of wetlands with restoration or minor permanent fills of less than 300 square feet with compensatory wetland mitigation as approved by Agency staff in accordance with the conditions of this general permit will not result in undue adverse impacts on Park resources, will not substantially impair the functions served by or the benefits derived from said wetlands, and will provide other social or economic benefits from the activity. The Agency has guidelines for wetland compensation.
5. Timely implementation and maintenance of standard best management construction practices described in the permit conditions will minimize impacts to the wetlands or restore wetlands.
6. The project as proposed and authorized herein will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

#### **CONCLUSIONS OF LAW**

The Agency has considered all the statutory and regulatory criteria for project approval as set forth in Section 24-0801(2) of the Freshwater Wetlands Act (ECL, Article 24, Title 8) and 9 NYCRR 578.10 and in Section 809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574.

The Agency hereby finds that those certain minor regulated activities as described herein are approvable provided they are undertaken in compliance with the approved application/certification and required attachments and the terms and conditions herein.

The Agency also hereby finds:

1. The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the economic and social benefits that might be derived therefrom.
2. The Agency has considered the public policy of the State set forth in ECL 24-0103, the statement of legislative findings set forth in ECL 24-0105, and the effect of the project upon the public health and welfare, fishing, flood, hurricane and storm dangers, and the protection and enhancement of the several wetland functions and benefits. The applicable findings of 9 NYCRR Part 578 can be made.

