

 <p>P.O. Box 99 • Ray Brook, New York</p> <p>www.apa.ny.gov</p>	<p>General Permit 2009G-2</p>	<p>Effective Date: September 11, 2009</p>
	<p>In the Matter of the Issuance of a General Permit for:</p> <p>Installation of Certain New Small-Scale Wind Turbines and Wind Monitoring Masts</p>	

SUMMARY AND AUTHORIZATION

This general permit is issued pursuant to §809(13) (e) of the Adirondack Park Agency Act (Executive Law Article 27) authorizing a simplified Agency approval process for installation of one new small-scale wind turbine or one wind-monitoring mast for residential and small business use where such structures are of a design, size, location and color to blend with background vegetation, other landscape features or existing structures consistent with §809(10) of the APA Act and the guidance in the Agency’s “Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park” (Towers Policy).

The projects authorized by this General Permit shall be undertaken and completed only as shown on approved scaled project site plans and tower and turbine structure elevations and in accordance with the terms and conditions of a separate General Permit Certificate to be obtained for each project from the Agency.

This general permit shall be recorded in the Office of the County Clerk for each County located all or in part in the Adirondack Park.

This general permit applies throughout the Adirondack Park and shall be effective for a period of five years from the date of issuance unless otherwise revoked or modified by the Agency.

ADIRONDACK PARK AGENCY JURISDICTION

The projects eligible for and subject to this general permit are certain types of jurisdictional Class A regional projects identified in §810 of the Adirondack Park Agency Act as a “structure in excess of forty feet in height”.

This general permit does not apply to:

- Projects that involve any other proposed APA-jurisdictional activities requiring Agency approval (e.g. a jurisdictional subdivision or construction of a single-family dwelling requiring a new Agency permit);

- Wind turbines and wind monitoring masts intended to be located within a highway critical environmental area, within 1/8 mile of lands classified Wilderness, Canoe Area, or Primitive on the Adirondack Park Land Use and Development Plan Map and State Land Map, or within ¼ mile of a river designated Wild, Scenic, Recreational, or Study; and
- commercial wind farms.

The ineligible projects listed above require an individual permit application.

ELIGIBILITY FOR APPLICATION

In order to be eligible to apply for a Certification issued pursuant to this general permit, all of the following requirements and criteria must be met.

- (1) This small-scale general permit may only be used for one small-scale wind turbine or one wind monitoring mast per property. It can be used to amend an existing Agency-approved project. The proposal must meet the following criteria:
 - The wind turbine blade diameter shall not exceed 25 feet.
 - The top of the turbine rotor sweep area or the wind monitoring mast shall not be more than 125 feet above ground level as measured at the tower base.
 - The wind turbine/tower or wind monitoring mast shall be at least 150 feet from any property boundary.
 - The tower system shall be designed and located in such a manner to minimize adverse visual impacts from significant public viewing areas.
 - The proposed tower system shall have no exterior lighting and no television, radio, or other communications antennas on it.
 - Any power transmission lines from the tower to any building shall be located underground to the maximum extent practicable.
- (2) Scaled project site plans and structure elevations (showing all structure components) shall be provided as specified in the required application.

PROCEDURES and APPROVAL CRITERIA

General Permit Application Review Process:

- (1) To utilize this APA General Permit 2009G-2, the Project Sponsor(s) must fully complete the application labeled “Application for Installation of Certain New Small-Scale Wind Turbines.” The application will not be accepted for review unless it is complete, including all of the required attachments. The application must be submitted to:

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

- (2) By signing the Application, the project sponsor agrees that the review clocks of §809 of the Adirondack Park Agency Act do not apply to this application. However, within ten business days of receipt of the application, the Agency will review it for completeness, confirm Agency jurisdiction, determine whether the proposed activity meets the eligibility criteria described herein and contact the project sponsor to arrange a meeting at the project site. The meeting does not have to take place within the ten day period, but will be scheduled at the earliest mutually agreeable time. A determination of completeness shall not be made until conclusion of the visual impact analysis needed for determination of compliance with the Agency's "Towers Policy". If the application is incomplete, the Agency will inform the project sponsor by mail indicating what specific information is missing. Upon receiving all missing information, a new 10 business-day review period begins for determining completeness.
- (3) Within ten business days after (i) the site visit or (ii) the determination that the application is complete, whichever is later, the Agency will issue a signed APA General Permit 2009G-2 Certification approving the project provided it meets all eligibility and approval criteria listed herein.
- (4) Based on a preliminary desktop visual analysis and field review by Agency staff, the Agency's Deputy Director (Regulatory Programs) will determine whether the project as proposed adequately conforms to the eligibility and approval criteria contained herein and is consistent with the Agency's Tower's Policy. Only if it is determined that the project is in conformance with the criteria and policy will use of the general permit be allowed. Where an application has been determined to be ineligible for processing under this General Permit, the Agency will send a letter explaining why the project is ineligible and stating that the activity will be reviewed again upon receipt of a new regular major permit application.
- (5) Approval Criteria:
Upon office and/or field verification, the proposed project must be determined by the APA Deputy Director (Regulatory Programs) to meet the statutory and regulatory criteria of §809(10) of the APA Act, and
 - a. be consistent with the information contained in the application;
 - b. be in general conformance with the Agency's "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park";
 - c. not require additional detailed engineering or environmental studies to more fully demonstrate no undue adverse impacts on important visual 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. be capable of meeting the conditions contained within this General Permit and as stated in “Conditions” of the Certification form.

For a wind turbine or monitoring mast and associated infrastructure to be considered consistent with the Agency’s “Towers Policy”, the structure must be carefully sited, use topography or vegetation in the foreground or backdrop to minimize visibility of the structure to the maximum extent practicable, be located near buildings or other tall structures, and only be selectively visible (including skylit) from less sensitive nearby public viewpoints such as secondary roads and adjacent or nearby properties. In general, the structure should not be located on mountain tops or ridge lines; not adversely impact nearby land uses, and if skylit will not be prominently seen from significant public viewing points, including primary roadways, navigable waterways, designated Scenic Vistas, Highway Critical Environmental Areas, Wild, Scenic or Recreational Rivers, or Lands Classified Wilderness, Canoe, or Primitive on the Adirondack Park Land Use and Development Plan Map and State Land Map.

- (6) By signing the application, a Project Sponsor:
 - a. confirms that the information contained in the application is true, accurate and complete;
 - b. agrees that if a jurisdictional project has been determined to be ineligible for approval under the APA General Permit Program, the determination may not be appealed and the appropriate regular permit application must be submitted to the Agency and a permit issued before that project can be undertaken;
 - c. agrees that the time period for review for completeness of any subsequent application for an regular permit will not begin until the Agency has received the regular permit/order application;
 - d. agrees that there is no default approval of the application for an Agency General Permit if the time periods specified herein are not complied with by the Agency. The Agency will make every effort to provide timely review, but field visits are weather dependent;
 - e. agrees to undertake and complete the project in full compliance with the terms and conditions of a General Permit Certification issued by the Agency; and
 - f. agrees to allow Agency staff, on reasonable notice, to access the project site in order to conduct a visual impact assessment and to review the proposed project.

GENERAL CONDITIONS FOR THE CERTIFICATIONS

- (1) The Certification shall be applicable to the project sponsor, his or her successors and assigns, and to any subsequent owner of all or a portion of the project site.
- (2) The project shall be undertaken and completed only as shown on the approved project site plans and in compliance with the conditions in the Certification issued, including any site specific conditions.

- (3) The project sponsor, his or her successors and assigns shall provide all subsequent owners of the lot subject to the Certification with a copy of the approved site plan and structure elevations, and a copy of the Certification, and shall advise all subsequent owners in writing that the project may only be undertaken within the parameters of the Certification; and
- (4) The project sponsor, his or her successors and assigns, or the subsequent owner of the lot subject to the Certification shall seek an amendment if he or she wishes to alter the location of the tower structure or materially change the type, size, or color of the tower or wind turbine.

FINDINGS OF FACT

- (1) For the reasons set forth below and as described in the Certificate issued for a given project, the projects authorized by and subject to this general permit are those that have been determined to 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 commercial, industrial, residential, recreational or other benefits that might be derived therefrom.
- (2) The Agency has adopted a policy entitled “Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park” (Towers Policy). This policy is intended to protect aesthetic, open space and other natural and community resources. The proposed eligible wind turbines or monitoring masts authorized by this general permit and as conditioned in the issued certificate will be consistent with the Agency's “Towers Policy”.
- (3) The projects subject to this general permit 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 809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Parts 574 and 577. The Agency hereby finds that installation of certain small-scale residential wind turbines and monitoring masts described herein are approvable provided they are undertaken in compliance with the approved permit certification and required attachments and the terms and conditions therein.

Issued this day of , 2009

ADIRONDACK PARK AGENCY

Mark E. Sengenberger
Deputy Director (Regulatory Programs)

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

On the day of in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared Mark E. Sengenberger, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

REW:mlr