

 <p>NEW YORK STATE <b>Adirondack</b> parkagency</p> <p>P.O. Box 99 • Ray Brook, New York 12977 (518) 891-4050</p>	<p><b>General Permit</b> <b>2012 G-1</b></p>	<p>Effective Date: _____, 2013</p>
	<p>In the Matter of the Issuance of a General Permit for:</p> <p><b>Silvicultural Treatments For Sustainable Forestry in the Adirondack Park</b></p>	<p>Expiration Date: <b>XXXXXXX</b>, 2016</p>

### SUMMARY AND AUTHORIZATION

This General Permit is issued pursuant to the Adirondack Park Agency Act (Executive Law Article 27) and 9 NYCRR Part 573 authorizing a simplified Agency approval process for implementing silvicultural treatments that meet jurisdictional clearcutting thresholds as part of a forest management plan as approved by eligible third party certification programs.

The projects authorized by this General Permit shall be undertaken and completed only as described in the forest management plan and in accordance with the conditions of this General Permit and a separate General Permit Certification to be obtained for each project from the Agency.

This General Permit shall be recorded by the Agency in the Office of the County Clerk for the counties of Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Oneida, St. Lawrence, Saratoga, Warren, and Washington.

This General Permit applies throughout the Adirondack Park and shall be effective until **xxxxxxxxx**, 2016, unless revoked by the Agency's Deputy Director, Regulatory Programs..

### ADIRONDACK PARK AGENCY JURISDICTION

A silvicultural treatment that involves a clearcut of more than 25 acres of a single unit of land is a Class A regional project requiring an Agency permit pursuant to Executive Law §§ 809(2)(a) and 810(1). The term "clearcut" is defined in Executive Law § 802 as "any cutting of all or substantially all trees over six inches in diameter at breast height over any ten-year cutting cycle," and is further defined in 9 NYCRR §573.7.

### ELIGIBILITY FOR APPLICATION

In order to be eligible for a Certification issued pursuant to this General Permit, all of the following must apply.

- (1) The sole basis of Agency jurisdiction on the project site is timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres. This General Permit is not applicable to projects involving a designated Wild, Scenic, or

Recreational River area, a regulated activity under the Freshwater Wetlands Act (except construction of a woods road involving Class 3 or 4 wetlands), or on project sites involving an active application for a jurisdictional subdivision.

- (2) The lands proposed for treatment have forest management certification under the Forest Stewardship Council (FSC) or the Sustainable Forestry Initiative (SFI) certification programs as demonstrated by the certification certificate. The proposed treatment shall be in compliance with the terms of the certification certificate.
- (3) The Project Sponsor must submit a complete application.
- (4) The application must contain all of the required attachments including a narrative and graphic description of timber harvesting on the project site, including size of the site, harvest history, integration with previous forest management actions, maps, photos, and documentation that the proposed clearcut is prescribed for regeneration within the approved forest management plan and a detailed implementation schedule of project components.
- (5) If Agency staff determines that the project must be referred to the Office of Parks, Recreation and Historic Preservation (OPRHP), the Agency must receive documentation from OPRHP indicating that the project will not have an impact on historic or archeological resources, listing their recommendations for studies or surveys to be completed, and/or detailing their recommendations for mitigation of any impacts to historic or archeological resources.
- (6) The Deputy Director, Regulatory Programs determines the proposal as demonstrated by the application materials can be authorized by this General Permit under section 809(9) or 809(10) of the Adirondack Park Agency Act.

### **PROCEDURES**

- (1) To commence Agency review of a proposed project pursuant to this General Permit, the Project Sponsor must fully complete and submit the application and all required attachments to:

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

- (2) Upon receipt of the application materials, the Agency will post notice of the received application on the Public Input page of the Agency's website.
- (3) Within 30 working days of receipt of an application, Agency staff will confirm jurisdiction, determine whether the proposed project meets the eligibility criteria, and review the application for completeness. Agency staff will contact the applicant to arrange a meeting at the project site. If the application is incomplete, Agency staff will inform the Project Sponsor in writing what information is missing, at which time the 30 working day clock will be suspended. Upon submission of new material, the Agency shall have a new 30 working day period.

- (4) Based on analysis by Agency staff, the Agency's Deputy Director, Regulatory Programs will determine whether the project as proposed conforms to the eligibility criteria cited herein. Where an application is 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 the supplemental information necessary for processing a major project permit application.
- (5) Within ten working days that the application is deemed complete and a determination by the Agency's Deputy Director, Regulatory Programs that the proposal is eligible for authorization under General Permit 2012G-1 the Agency will issue a signed Certification approving the project which will remain effective so long as eligibility criteria are maintained and there is no change to the proposed treatment or approved implementation schedule.
- (6) The review time periods established in Executive Law § 809 shall not apply to Agency review of an application pursuant to the General Permit, except that if the Agency does not issue a Certification within ten days of determining that a proposed project is eligible for authorization under General Permit 2012G-1, the procedures established in Executive Law § 809(6)(a) shall apply.
- (7) By signing the application, the Project Sponsor:
  - a. confirms that the information contained in the application is true, accurate and complete;
  - b. agrees to undertake and complete the project in full compliance with the conditions of a General Permit Certification issued by the Agency; and
  - c. agrees to allow Agency staff, on reasonable notice, to access the project site in order to review the proposed project.

#### **GENERAL CONDITIONS**

- (1) Any project authorized by this General Permit shall be undertaken and completed only as described in the approved application and in compliance with the conditions contained in the authorizing certification, including any site specific conditions. In the case of conflict, the conditions control.
- (2) Any alteration to the forest management plan as approved by the forest management certification program shall require additional Agency review and approval.
- (3) Failure to comply with any Certification issued pursuant to this General Permit is a violation and may subject the Project Sponsor or any contractor working on all or a portion of the project site to civil penalties and other legal proceedings, including modification, suspension or revocation.

## FINDINGS OF FACT

- (1) The Agency recognizes that compliance with the FSC or SFI forest management certification programs requires land owners to meet strict standards for forest management that include assured regeneration of harvested areas, establishment and maintenance of sustainable harvest yields, protection of soil and water resources including establishment of riparian buffers, attention to aesthetic impacts, conservation of biological diversity, and protection of species and habitats of concern. These considerations are generally comparable to the findings the Agency must make in accordance with Executive Law §809 and 9 NYCRR Section 573.7 to be able to issue a permit.
- (2) FSC and SFI certified forestlands are subject to regular review by independent auditors, charged with verifying compliance with the standards of the program. The audit reports are required under each certification standard to be made available to the public. The Project Sponsor must also submit to the Agency all publicly available audit reports related to lands subject to a Certification under this General Permit.
- (3) Adirondack Park Agency regulations at 9 NYCRR §573.7 define the term clearcut as cutting that results in a residual basal area of less than thirty square feet per acre. Legitimate silvicultural cutting prescriptions, such as shelterwood removal cuts, can constitute clearcuts under APA law if they lower the residual basal area below this threshold. Under the APA Act, any clearcut of greater than 25 acres requires a permit in all land use areas except Hamlet and Industrial Use. Accordingly, a landowner may choose to cut the high value wood from a stand, leaving behind at least thirty square feet per acre of undesirable trees, and leading to a reduction in biodiversity and unhealthy forest conditions, rather than undertake a legitimate silvicultural prescription that requires an Agency permit as a clearcut.

The FSC certification for the Northeast Region requires that harvest opening sizes are planned to protect natural native regeneration in a manner consistent with natural disturbance regimes. The SFI certification maintains a maximum average opening size of 120 acres.

- (4) The Agency recognizes the value of a limited timeframe for the initial issuance of this General Permit, to provide for a study period during which its effectiveness can be monitored, and associated changes in the practice of silviculture in the Adirondack Park can be evaluated. Following the expiration of this General Permit on xxxxxxx, the Agency will review the history of its implementation, and decide upon further use.
- (5) 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.

