


STAFF DRAFT
THIS IS A TWO-SIDED DOCUMENT

<div style="display: flex; align-items: center;"><div>Adirondack Park Agency</div></div> <p style="text-align: center; margin-top: 10px;">PO Box 99 · 1133 NYS Route 86 Ray Brook, NY 12977 Tel: (518) 891-4050 · Fax (518) 891-3938 www.apa.ny.gov</p>	APA General Permit/Order 2019G-1	Effective Date:
	<p>In the Matter of the Issuance of a General Permit/Order for:</p> <p style="text-align: center; font-weight: bold;">Replacement of Certain Utility Poles</p>	

SUMMARY AND AUTHORIZATION

This General Permit/Order is issued to regional and municipal utility companies within the Adirondack Park to allow for the replacement of certain utility poles on lands owned by or within rights-of-way held by utility companies or the New York State Department of Transportation.

All terms and conditions of a certification issued pursuant to this General Permit/Order shall apply to the applicant and any individual, contractor, municipality, or other entity undertaking the authorized work on the project site.

This Permit/Order does not grant any right to trespass upon the lands or interfere with the riparian rights of others, nor does it authorize the impairment of any easement, right, title, or interest in real or personal property. Nothing contained in this Permit/Order shall be construed to satisfy any legal obligations of the applicant to comply with all applicable laws and regulations or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, state, regional, or local.

This General Permit/Order is in effect until modified or revoked by the Agency. **This General Permit/Order supersedes and revokes General Permit 2017G-1 for the “Access to and Replacement of Utility Poles in Wetlands”.**

JURISDICTION

The Adirondack Park Agency has jurisdiction over the construction of structures in excess of 40 feet in height pursuant to §§ 809 and 810 of the Executive Law (the Adirondack Park Agency Act), and/or as new land use or development pursuant to Executive Law § 814, 9 NYCRR § 579.1, and 9 NYCRR § 4.150 (Executive Order 150). The Agency has jurisdiction over activities within designated river areas pursuant to Article 15, Title 27, of the Environmental Conservation Law (the Wild, Scenic, and Recreational Rivers System Act) and 9 NYCRR Part 577. The Agency has jurisdiction over activities involving wetlands pursuant to Article 24 of the Environmental Conservation Law (the Freshwater Wetlands Act), Executive Law §§ 809(2)(a) and 810(1), and 9 NYCRR § 578.2(a).

ELIGIBILITY

Any proposal that meets the following criteria is eligible for a certification issued pursuant to this General Permit/Order:

- a. The project will be undertaken by a regional or municipal utility company;
- b. The project site is located on lands owned by or within a right-of-way held by a regional or municipal utility company or the New York State Department of Transportation;
- c. The sole basis of Agency jurisdiction for the project is the replacement of utility poles involving: i) an increase in height and resulting in a final height above grade in excess of 40 feet; and/or ii) wetlands;
- d. The project will not result in an increase in the number of utility poles;
- e. For existing utility poles equal to or less than 40 feet in height above grade, no proposed replacement pole will be greater than 50 feet in height above grade; and
- f. For existing utility poles greater than 40 feet in height above grade, no proposed pole will increase by more than 25% in height above grade over the pole being replaced.

APPLICATION REVIEW PROCESS

Upon receipt of an application, Agency staff will confirm jurisdiction, determine whether the proposed project meets the eligibility criteria described above, and review the application for completeness. Any proposal that does not meet the eligibility criteria described above shall require submission of an application for a major project, and shall be subject to the procedures for review of major projects established in § 809 of the Adirondack Park Agency Act and 9 NYCRR Part 572.

Within 10 business days of receipt of an incomplete application, Agency staff will inform the applicant by mail, describing the information necessary to complete the application.

Within 10 business days of receipt of a complete application for a proposal that meets the eligibility criteria described above, the Agency will issue a signed certification approving the project. If no request for additional information or signed certification is issued by the Agency within 10 business days of receipt of an application, any proposal that meets the eligibility criteria described above shall be deemed approved upon receipt by the Agency of notice from the applicant of intent to proceed with the proposal.

CONDITIONS

1. The height and location of the replacement utility poles and any associated vegetative cutting and maintenance shall comply with all applicable utility laws, regulations, safety requirements, and company specifications.

2. For projects involving wetlands:
 - a. Whenever practicable, access through wetlands shall occur on frozen ground and with the use of wide-tracked vehicles.
 - b. All activities shall occur in compliance with the "Best Management Practice for Preventing the Transportation of Invasive Plant Species," published by Environmental Energy Alliance of New York, 4/26/2012.
 - c. No temporary access structure, including bog mats and work pads, shall be located within a wetland for more than 30 days.
 - d. Existing poles to be replaced shall be removed completely from the wetland, including the portion of the pole that was below grade.
 - e. If any hole left after removal of a pole or created for a replacement pole is to be backfilled with gravel or other ballast, the top six inches shall be covered with organic soil and the final elevation shall be the same as the surrounding wetland surface.
 - f. The total area of wetland disturbance shall be limited to that necessary for replacement of the utility poles.
3. When brought from off-site, all vehicles, construction equipment, and hand excavation tools to be used on the project site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites. All vehicles, construction equipment, and hand excavation tools used in areas that may contain existing invasive species shall be thoroughly cleaned prior to moving to other areas.
4. The Agency may conduct on-site investigations, examinations, and evaluations as it deems necessary to ensure compliance with the terms and conditions of this Permit/Order.

CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for approval set forth in Executive Law §§ 809 and 814, 9 NYCRR Parts 574, 577, 578, and 579, and Environmental Conservation Law §§ 15-2705, 15-2709, 24-0103, 24-0105, and 24-0801. The Agency hereby finds that, for all land use areas and wetland value ratings, the activities authorized by certificate pursuant to this General Permit/Order:

- a. will be consistent with the land use and development plan;
- b. will be compatible with the character description and purposes, policies, and objectives of the land use area(s) involved;
- c. will be consistent with the overall intensity guidelines for the land use area(s) involved;

- d. will comply with the shoreline restrictions of Executive Law § 806;
- e. will 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;
- f. will secure the natural benefits of wetlands associated with the project, consistent with the general welfare and beneficial economic, social, and agricultural development of the state;
- g. will be consistent with the purposes and policies of the Wild, Scenic and Recreational Rivers System Act;
- h. will comply with the restrictions and standards of 9 NYCRR § 577.6; and
- i. will not cause an undue adverse impact upon the natural, scenic, aesthetic, ecological, botanical, fish and wildlife, historic, cultural, archeological, scientific, recreational or open space resources of the river area, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived therefrom.

GENERAL PERMIT/ORDER issued this day
of , 2019.

ADIRONDACK PARK AGENCY

BY: _____
Robert J. Lore
Deputy Director, Regulatory Programs

STATE OF NEW YORK
COUNTY OF ESSEX

On the day of in the year 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert J. Lore, 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 they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RJL:slp