



Joint Amendment to A.1903-A (Glick) similar to S.6257 (Sanders)

Wind Turbine Blade Color and Birds

May 22, 2023

Although ACE NY, Audubon NY, and IPPNY appreciate that A.1903-A (Glick) includes provisions that recognize the jurisdiction of the Federal Aviation Administration (FAA) over the color of wind turbine blades, in a manner that substantively addresses one element from our suggested 2021 amendment, **A.1903-A (Glick) must be revised further** to include additional provisions from our 2021 amendment to ensure that:

- any new blade color requirements do not apply to existing wind turbine facilities, as re-permitting already operational facilities would delay compliance with the renewable energy target under the Climate Leadership and Community Protection Act; and
- the Office of Renewable Energy Siting (ORES) updates its regulations for Uniform Standards and Conditions, in order to provide an opportunity for transparency through public comments and hearings that are part of the existing rulemaking process.

By way of background, the FAA requires turbine blades to be painted white or light grey to increase visibility to aircraft ([p.51](#)). Also, existing ORES regulations require that wind facilities, wind turbines, towers and blades shall be FAA approved white or off-white colors to avoid the need for daytime aviation hazard lighting, unless otherwise mandated by FAA, and non-reflective finishes shall be used on wind turbines to minimize reflected glare (Sub-paragraph (5) of paragraph (d) of §900-2.9 of Chapter XVIII, Title 19 of NYCRR).

In addition, there is currently insufficient research on whether changing the color of wind turbine blades is an effective strategy for minimizing bird mortality, even though there have been suggestions stating that painting one of three wind turbine blades black could protect birds. The Norway [study](#) cited in 2021 was limited in scope; it looked at only eight turbines and placed black paint on four of those turbines. In 2022, PacifiCorp, a regional power provider serving customers in six western states, began partnering with the U.S. Geological Survey, Renewable Energy Wildlife Institute, U.S. Fish and Wildlife Service and the Wyoming Game and Fish Department in developing a novel study to evaluate the effects of painting one wind turbine blade black to reduce risks to birds flying near wind projects, and that study is still underway. Further study is needed before we can determine if changes in wind turbine blade color can be an effective strategy for reducing bird collisions.

It is important that we continue to explore and develop evidence-based strategies to reduce bird collisions and mortalities. Clean, renewable sources of energy, such as wind power, have

few negative environmental impacts and are essential components in our fight against climate change. If we can minimize or eliminate negative impacts to birds with scientifically proven methods, it will be a win-win for renewable energy developers and birds.

For these reasons, ACE NY, Audubon New York, and IPPNY are proposing the following amendments (shown in red text) to A.1903-A (Glick).

Amendment – May 22, 2023

STATE OF NEW YORK

1903--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. GLICK -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to the development of uniform standards for the coloring of wind turbine rotor blades

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 3 of section 94-c of the executive law
is
2 amended by adding a new paragraph (c-1) to read as follows:
3 (c-1) In addition to the uniform standards and conditions for
the
4 siting, design, construction and operation of major renewable
energy
5 facilities established pursuant to paragraph (b) of this
subdivision,
6 the office shall establish, in consultation with the department of
envi-
7 ronmental conservation, uniform standards and conditions for the
coloring
8 of wind turbine rotor blades. The uniform standards and
conditions

9 established pursuant to this paragraph shall be designed to avoid
or
10 minimize, to the maximum extent practicable, any bird collisions
arising
11 from the siting, design, construction and operation of a major
renewable
12 energy facility utilizing wind turbines.

13 § 2. This act shall take effect on the one hundred eightieth day
after
14 a determination has been made by the federal aviation administration
to

15 allow for a revision to the coloring of wind turbine rotor blades to
minimize, to the maximum extent practicable, any bird collisions; provided,
however,

16 that:

17 (a) the office of renewable energy siting shall notify the
legislative
18 bill drafting commission upon the occurrence of such determination
made
19 by the federal aviation administration to allow for such a revision to
the coloring of wind

20 turbine rotor blades in order that the commission may maintain an
accu-
21 rate and timely effective database of the official text of the laws
of
22 the State of New York in furtherance of effecting the provisions
of
23 section 44 of the legislative law and section 70-b of the public
offi-
24 cers law;

(b) section one of this act only shall apply to applications for a
siting permit filed with the office of renewable energy siting after the
date of enactment of this act and shall not apply to any existing major
electric generating facility that has received a certificate of environmental
compatibility and public need pursuant to article 10 of the public service
law or to any application for an amendment to such a siting permit or a
certificate;

(b) The office of renewable energy siting shall, within one year of
the effective date of this section, promulgate rules, regulations, and
procedures as may be necessary, convenient, or desirable to effectuate the
implementation of section one of this act; and

25 (c) the amendments to subdivision 3 of section 94-c of the
executive
26 law made by section one of this act shall not affect the expiration
of
27 such section and shall be deemed to expire therewith.

EXPLANATION--Matter in italics (underscored) is new; matter in
brackets

[-] is old law to be omitted.

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