

STATE OF NEW YORK

10053

IN ASSEMBLY

April 29, 2022

Introduced by M. of A. OTIS -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to requiring the department of environmental conservation to implement permit regulations and guidance regarding shoreline management

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

1 Section 1. Section 1-0303 of the environmental conservation law is
2 amended by adding a new subdivision 26 to read as follows:

3 26. "Nature-based solution" shall mean a project that is supported or
4 inspired by nature or natural processes and functions and that may also
5 offer environmental, economic, and social benefits, while increasing
6 resilience. Nature-based solutions include both green and natural
7 infrastructure.

8 § 2. Section 3-0301 of the environmental conservation law is amended
9 by adding a new subdivision 2-a to read as follows:

10 2-a. (a) To further assist in carrying out the policy of this state as
11 provided in section 1-0101 of this chapter, the department, by and
12 through the commissioner shall:

13 (i) authorize and encourage the use of nature-based solutions as the
14 preferred alternative for stabilizing tidal shorelines in the state when
15 promulgating and implementing rules and regulations relating thereto,
16 specifically including, but not limited to, those promulgated and imple-
17 mented for articles fifteen, twenty-five and thirty-four of this chap-
18 ter. The department shall consult with the United States army corps of
19 engineers to ensure the minimization of conflicts with federal law and
20 regulation.

21 (ii) develop integrated guidance for the management of tidal shoreline
22 systems to provide a technical basis for the coordination of permit
23 decisions required by any regulatory entity exercising authority over a
24 shoreline management project. Such guidance shall:

25 (1) communicate to stakeholders and regulatory authorities that it is
26 the policy of the state to support nature-based solutions as the
27 preferred alternative for stabilizing tidal shorelines;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (2) identify preferred shoreline management approaches for the shore-
2 line and community types found in the state;

3 (3) explain the risks and benefits of protection provided by various
4 shoreline system elements associated with each management option; and

5 (4) recommend procedures to achieve efficiency and effectiveness by
6 the various regulatory entities exercising authority over a shoreline
7 management project.

8 (iii) permit only nature-based solution approaches to shoreline
9 management unless the best available science shows that such approaches
10 are not suitable. If the best available science shows that a nature-
11 based solution approach is not suitable, the department shall require
12 the applicant to incorporate, to the maximum extent possible, elements
13 of nature-based solution approaches into permitted projects.

14 (b) (i) For the purposes of this subdivision, "nature-based solution"
15 shall have the same meaning as defined in subdivision twenty-six of
16 section 1-0303 of this chapter and shall specifically mean techniques
17 applied within the tidal zone that incorporate natural, native living
18 features.

19 (ii) When considering a nature-based solution the department should
20 prioritize techniques that:

21 (1) control or reduce shoreline erosion while maintaining benefits
22 comparable to the natural shoreline including, but not limited to,
23 allowing for natural sediment movement;

24 (2) improve, restore, or maintain the connection between the upland
25 and water habitats; and

26 (3) incorporate habitat enhancement and natural elements, including
27 but not limited to native re-vegetation or establishment of new vege-
28 tation consistent with a natural shoreline typical of the current site
29 location either:

30 (A) under current conditions, or

31 (B) as adjusted for science-based state sea-level rise projections,
32 utilizing a high-medium projection scenario at a time interval appropri-
33 ate for the anticipated lifespan of the project but not less than twenty
34 years after the anticipated project completion, pursuant to section
35 3-0319 of this title for such location.

36 § 3. This act shall take effect immediately.