STATE OF NEW YORK

985

2019-2020 Regular Sessions

IN SENATE

January 9, 2019

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the preparation of forest management plans subject to the approval of the department of environmental conservation; and to amend the executive law, in relation to increasing the jurisdiction of the Adirondack park agency over clearcutting

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

Section 1. Section 49-0311 of the environmental conservation law is renumbered section 49-0313 and a new section 49-0311 is added to read as follows:

§ 49-0311. Forest management plans.

1. The department is hereby authorized and directed to promulgate regulations, within six months of the effective date of this section, for the preparation of forest management plans on lands where the practice of forestry is to continue under the terms of a conservation easement purchased by the state. There shall be no harvesting of timber for commercial purposes or infrastructure activities on such lands until the forest management plan has been approved by the department.

2. The forest management plan and supporting documents shall, at a minimum, include the following:

a. a description of the forest resources to be managed, environmental conditions and limitations, land use and ownership status, and a profile of adjacent lands;

b. a description of silvicultural and other management systems, as applicable, based on the ecology of the forest in question and information gathered through resource inventories;

c. a rationale for the rate of annual harvest, species selections, and expected outcomes;

d. provisions for monitoring of forest growth and dynamics;

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

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e. environmental safeguards based on environmental assessments. Such environmental assessments shall, at a minimum, include an evaluation of potential environmental impacts and their cumulative effects, and identification of measures to mitigate those impacts, to the maximum extent possible, including impacts upon plants and animals, and soil and water resources, and the maintenance or restoration, as applicable, of the long term ecological functions of the forest;

f. plans for the identification and protection of rare, threatened, and endangered species and their habitats;

g. maps describing the forest resource base, including protected areas, planned management activities, and land ownership; and

h. a description and justification of harvesting techniques and equipment to be used.

3. The management plan shall be revised periodically to incorporate the results of monitoring or new scientific and technical information, as well as to respond to changing environmental, social, and economic circumstances.

§ 2. Section 809 of the executive law is amended by adding a new subdivision 10-a to read as follows:

10-a. The agency shall not approve any project proposed for timber harvesting that includes a proposed clearcutting of any single unit of land of more than five acres pursuant to subparagraph one of paragraph a, subparagraph nine of paragraph b, subparagraph nine of paragraph c, subparagraph ten of paragraph d, or subparagraph eleven of paragraph e of subdivision one of section eight hundred ten of this article until a forest management plan has been submitted to the agency and the agency has approved such plan. The agency shall, in consultation with the department of environmental conservation, promulgate rules and regulations setting forth the requirements for such forest management plan, consistent with the provisions of this subdivision. The forest management plan and supporting documents shall, at a minimum, include the following:

a. a description of the forest resources to be managed, environmental conditions and limitations, land use and ownership status, and a profile of adjacent lands;

b. a description of silvicultural or other management systems, as applicable, based on the ecology of the forest in question and information gathered through resource inventories;

c. a rationale for rate of annual harvest, species selections, and expected outcomes;

d. provisions for monitoring of forest growth and dynamics;

e. environmental safeguards based on environmental assessments. Such environmental assessments shall, at a minimum, include an evaluation of potential environmental impacts and their cumulative effects, and identification of measures to mitigate those impacts, to the maximum extent possible, including impacts upon plants and animals, and soil and water resources, and the maintenance or restoration, as applicable, of the long term ecological functions of the forest;

f. plans for the identification and protection of rare, threatened, and endangered species and their habitats;

g. maps describing the forest resource base, including protected areas, planned management activities, and land ownership; and

h. a description and justification of harvesting techniques and equipment to be used.

The management plan shall be revised periodically to incorporate the results of monitoring or new scientific and technical information, as

well as to respond to changing environmental, social, and economic circumstances.

§ 3. Subparagraph 1 of paragraph a of subdivision 1 of section 810 of the executive law, as amended by chapter 679 of the laws of 1974, is amended to read as follows:

(1) All land uses and development and all subdivisions of land involving wetlands, except for forestry uses (other than timber harvesting that includes a proposed clearcutting of any single unit of land of more than [~~twenty-five~~] five acres), agricultural uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.

§ 4. Subparagraph 9 of paragraph b, subparagraph 9 of paragraph c, subparagraph 10 of paragraph d, and subparagraph 11 of paragraph e of subdivision 1 of section 810 of the executive law, as added by chapter 348 of the laws of 1973, are amended to read as follows:

(9) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than [~~twenty-five~~] five acres.

(9) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than [~~twenty-five~~] five acres.

(10) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than [~~twenty-five~~] five acres.

(11) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than [~~twenty-five~~] five acres.

§ 5. Section 803 of the executive law, as amended by chapter 986 of the laws of 1984, is amended to read as follows:

§ 803. Adirondack park agency. 1. There is hereby created in the executive department, the Adirondack park agency, which shall consist of the following members: the commissioner of environmental conservation, the secretary of state, the commissioner of commerce and eight members to be appointed by the governor by and with the advice and consent of the senate. The governor shall designate a chairman from among the members appointed to the agency, who shall serve at the governor's pleasure. None of the members appointed by the governor shall be officers or employees of any state department or agency.

2. Five members appointed by the governor shall be full-time residents within the Adirondack park provided, however, that no two such members shall be residents of the same county except for such members initially appointed before January first, nineteen hundred seventy-three, who may be reappointed for additional successive terms. Three members appointed by the governor shall be residents of the state outside the Adirondack park. Not more than five appointed members shall be of the same political party.

3. All appointments shall be made for terms of four years; provided that the first member appointed by the governor pursuant to the increase of members from seven to eight shall be appointed for a term expiring on the thirtieth day of June, nineteen hundred seventy-six. Each of such appointed members of the agency shall hold office for the term for which he was appointed and until his successor shall have been appointed and qualified or until he shall resign or be removed in the manner provided by law. In the case of any vacancy other than one arising by expiration of term, an appointment to fill the vacancy shall be made for the remainder of the unexpired term.

4. The designated chairman shall receive an annual salary of thirty thousand dollars. The other members of the agency, except those who serve ex officio, shall receive one hundred dollars per diem, not to exceed five thousand dollars per annum compensation for their services

as members of the agency. All members, except those who serve ex officio, shall be allowed the necessary and actual expenses incurred in the performance of duties under this article.

5. A majority of the members of the agency shall constitute a quorum for the transaction of any business or the exercise of any power or function of the agency and affirmative vote by a majority of the members of the agency, except as is otherwise specifically provided in this article, shall be required to exercise any power or function of the agency. Votes of any member shall be cast in person and not by proxy. The agency may delegate to one or more of its members, officers, agents and employees, such powers and duties as it deems proper **except to do any project proposed for timber harvesting that includes proposed clearcutting of any single unit of land of more than five acres pursuant to subparagraph one of paragraph a, subparagraph nine of paragraph b, subparagraph nine of paragraph c, subparagraph ten of paragraph d, or subparagraph eleven of paragraph e of subdivision one of section eight hundred ten of this article**.

6. The commissioner of environmental conservation and the commissioner of commerce and the secretary of state may, by official authority filed in their respective agencies, and with the Adirondack park agency, designate a deputy or other officer to exercise his powers and perform his duties, including the right to vote, on the agency.

§ 6. Paragraph e of subdivision 13 of section 809 of the executive law, as added by chapter 428 of the laws of 1979, is amended to read as follows:

e. To issue a general permit for any class of projects concerning which the agency determines it may make the requisite statutory findings on a general basis **except for any project proposed for timber harvesting that includes proposed clearcutting of any single unit of land of more than five acres pursuant to subparagraph one of paragraph a, subparagraph nine of paragraph b, subparagraph nine of paragraph c, subparagraph ten of paragraph d, or subparagraph eleven of paragraph e of subdivision one of section eight hundred ten of this article**.

§ 7. This act shall take effect immediately.