STATE OF NEW YORK

5125

2023-2024 Regular Sessions

IN SENATE

February 23, 2023

Introduced by Sen. PARKER -- 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 enacting the "New York deforestation protection act"

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

Section 1. Short title. This act shall be known and may be cited as the "New York deforestation protection act".

§ 2. Article 9 of the environmental conservation law is amended by adding a new title 23 to read as follows:

TITLE 23

NEW YORK DEFORESTATION PROTECTION ACT

Section 9-2301. Purpose.
9-2303. Powers of the department; timber.
9-2305. Powers of the department; pests and invasive species.
9-2307. Powers of the department; water and land management.

§ 9-2301. Purpose.

It is the public policy of the state to control forest pests threatening forests of the state and to protect the forest resources, promote good forest management, enhance the growth and maintenance of forests, promote stability of forest-using industries, aid in fire control by reducing the menace created by dying and dead trees, conserve forest cover on watersheds and protect wildlife, recreational values and other values of the forest.

§ 9-2303. Powers of the department; timber.

1. In accordance with the purposes of section 9-0105 of this article and no later than December first, two thousand twenty-six, the commissioner shall adopt rules to (a) ensure adequate protection against deforestation of agricultural, forest, and other undeveloped land; and (b) establish performance standards for timber harvesting activities. The rules shall provide the maximum opportunity for flexibility that

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

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achieves the goal of protecting the public resources while minimizing the impact on private resources. In developing forest protection and regeneration standards, the commissioner shall take into consideration local and regional differences in forest types, tree species and physiographic conditions.

2. (a) The commissioner shall establish, by rule, performance standards for clear-cuts, including limitations on size. These standards shall protect water quality, minimize soil erosion, ensure adequate regeneration, address adverse impacts on wildlife habitat and provide for a healthy and sustainable forest. The commissioner shall incorporate regional variations in developing performance standards that consider growing conditions, tree species and site quality.

(b) The commissioner shall adopt rules to ensure adequate regeneration of commercial tree species on a site within five years of completion of any timber harvest. Rules to implement such requirements shall include identification of commercial tree species, minimum stocking standards and methods to mitigate inadequate regeneration. Rules shall protect against soil erosion and stream sedimentation.

3. (a) The commissioner shall administer and enforce the regulation of timber harvesting and timber harvesting activities in areas classified, under his or her rulemaking, as protected areas. The commissioner shall establish standards in rule to implement this subdivision.

(b) The commissioner, in consultation with the department of agriculture and markets, shall investigate the feasibility of the department entering into arrangements for removal and sale of merchantable timber, taking into consideration the following:

(i) local market conditions;

(ii) adaptability of terrain for cutting and removal of timber;

(iii) potential hazards to surrounding stands of timber; and

(iv) other matters that the department requests.

(c) A state forester or a state forester's designee shall inspect areas in which timber is removed to determine if cutting and removal of timber is conducted in a manner that protects and preserves topsoil and surrounding growths.

(d) The department, on a finding that it is in furtherance of the purposes of this chapter, may encourage selection, shelterwood, or other types of management of timber if consistent with the biological requirements of the tree species and may regulate the size and shape of areas in which even-age management of timber is utilized.

§ 9-2305. Powers of the department; pests and invasive species.

1. The department is vested with the authority and jurisdiction in all matters relating to the prevention, detection and control of forest pests on the forest lands of the state, and to do all things necessary in the exercise of such authority and jurisdiction, except that this subdivision shall not be construed to grant any powers or authority to the department for the silvicultural control of forest pests on any land.

2. The department shall survey and investigate the presence, condition and extent of infestations and shall carry out control measures when necessary.

3. To carry out the purposes of this section, the department may enter into arrangements or agreements with universities, the department of agriculture and markets, other departments of this and other states, the United States department of agriculture and other federal agencies and with any counties, towns, corporations and individuals.

4. Every owner of forest lands or timber shall exercise every reasonable effort to control and destroy forest pests on forest lands or timber owned by or under the control of the owner. In case of the owner's failure, neglect or inability to do so, the work may be performed by the department as provided in this section.

§ 9-2307. Powers of the department; water and land management.

1. The commissioner shall adopt rules to allow activities that enhance cold water fishery habitats without a permit or fee. The rules shall establish standards for the placement of wood in stream channels and specify that such placement shall only be done by a licensed forester.

2. The commissioner shall administer and enforce the regulations of construction, maintenance and repair of land management roads, water crossings and gravel pits of less than five acres in areas designated as protection districts and management districts by the commissioner. The department shall establish forest management regulations and standards including a forest management plan. Landowners shall carry out the activities listed in such forest management plan. Prescribed activities shall meet or exceed the following minimum standards and be carried out in accordance with United States forest service or other appropriate silvicultural or management guides or handbooks. The regulations/standards shall:

(a) require a permit from the department for activities located within areas of special flood hazard as defined by rule;

(b) include standards to protect outstanding river segments, historic, scenic, scientific, recreational and aesthetic resources in areas classified by the department for special protection under rulemaking; and

(c) require review by and approval from the commissioner for any activity in a protection district described in paragraph (b) of this subdivision that requires a permit.

§ 3. This act shall take effect immediately.