

CHAPTER 10

AN ACT concerning reforestation of land, and amending and supplementing P.L.1993, c.106.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1993, c.106 (C.13:1L-14.2) is amended to read as follows:

C.13:1L-14.2 Plan for compensatory reforestation.

2. a. Each State entity, by July 1, 1993, and at least annually thereafter, shall develop, and submit to the Division of Parks and Forestry in the Department of Environmental Protection, a plan for compensatory reforestation for all areas at least one-half acre in size that are owned or maintained by that State entity and are scheduled for deforestation. A reforestation plan required pursuant to this act shall establish a goal of no net loss of existing forested area based upon a reasonable and practical Tree Replacement Factor developed due to the act of deforestation and in accordance with this act. The plan shall be subject to approval of the division after review and comment by the Community Forestry Council established pursuant to section 5 of P.L.1996, c.135 (C.13:1L-17.5). No project that would deforest land at least one-half acre in size that is owned or maintained by a State entity may be commenced without approval of that State entity's plan by the division.

A reforestation plan shall provide that, if tree planting adjacent to the deforested area is not feasible, it shall be conducted in the following order: within the municipality in which the deforestation occurred, within five miles of the site of deforestation, or off-site.

b. A reforestation plan developed pursuant to this section shall include appropriate and approved methods for the planting, protection, care and management of trees and other related natural resources. With the advice and assistance of the Community Forestry Council, the division shall develop and make available to State entities a list of guideline elements that shall be required in a reforestation plan. These guidelines shall establish but not limit the basic framework of an approved reforestation plan.

A reforestation plan developed pursuant to this section shall provide that:

(1) if the division determines that it is not feasible to conduct the tree planting efforts on-site, then the tree planting shall be conducted first on State property within the municipality in which the deforestation occurred or municipal property within the municipality in which the deforestation occurred. Municipal property may include property owned or maintained by that community including but not limited to parks, streets, schools, municipal facilities, and open space and recreation areas;

(2) if the division determines that it is not feasible to conduct the tree planting efforts on-site or within that municipality, then the tree planting shall be conducted within five miles of the site of the deforestation. Sites within five miles of the site of deforestation may include property owned or maintained by the State, county or other municipal entity;

(3) if the division determines that it is not practicable to conduct the tree planting efforts on-site, within the municipality or five miles of the site, then the tree planting shall be conducted off-site by the State entity. Off-site property may include property owned or maintained by a State entity other than the one developing and implementing the plan if the State entity that is to receive the benefits of the off-site tree planting efforts agrees thereto;

(4) the State entity shall use native species when practicable;

(5) the shape or configuration of the reforested area may be substantially similar to the shape or configuration of the deforested area;

(6) the replacement of trees shall be determined by the Tree Replacement Factor and shall be based upon accepted forestry research and practices which show the average tree density within urban areas to be 204 trees per acre of tree cover;

(7) in using the Tree Replacement Factor (TRF) for sites that are deforested the following number of stems shall be calculated for seeding, caliper and whip/container trees:

TRF = 204 (2" - 2 1/2") caliper trees per acre
= 408 whip/container (4' - 6') trees per acre
= 1210 tree seedlings per acre;

(8) the seedlings shall be planted from six to 10 feet apart, or at a distance mutually agreed to by the division and the State entity, and that the seedlings are obtainable from a tree nursery owned and operated by the State. Subject to availability from a State tree nursery, the seedlings

used in reforestation by a State entity pursuant to this act shall be those that are the most suitable for the site; and

(9) the species of caliper nursery grown trees measured at two and one half inches and whips at one and one half inches shall be planted based upon the approved planting plan and subject to the standards established by the American Association of Nurserymen. Trees to be planted shall be selected from those recommended in the publication entitled "Trees for New Jersey Streets" published by the New Jersey Shade Tree Federation and in accordance with the recommended planting specifications. Diversity in species composition shall be required to reduce the risk of widespread loss of trees to single insect and disease infestation and, therefore, similar species shall not exceed 30 percent of the total planting.

c. The State entity shall enter into a memorandum of agreement with the division that guarantees the division reimbursement for actual labor hours attributable to the review and implementation of that State entity's reforestation plan pursuant to this act. If the compensatory reforestation as required by this act cannot be accomplished on the site of the project by the State entity, the division and the State entity may mutually agree within the memorandum of agreement that the State entity responsible for the deforestation shall pay an amount equal to the value of the number of trees required as determined by the Tree Replacement Factor and in accordance with an approved plan. This payment shall be deposited in the "Shade Tree and Community Forest Preservation License Plate Fund," established pursuant to section 12 of P.L.1996, c.135 (C.39:3-27.81), and shall be expended for reforestation by the division with the advice of the Community Forestry Council and the approval of the director of the division. The memorandum of agreement shall be part of the State entity's plan for compensatory reforestation.

C.13:1L-14.4 Public forum to present plan for deforestation, reforestation by State entities.

2. Whenever a State entity owns or maintains land on which an area of at least one acre in size is scheduled for deforestation, at least 180 days prior to the deforestation of the area the State entity shall hold at least one public forum within the municipality in which the deforestation is scheduled, or, if the forested area scheduled for deforestation spans more than one municipality, in any one of the municipalities in which deforestation is scheduled, to present its plan for deforestation and its plan for reforestation. The public shall be permitted to present oral and written comments to the State entity within a comment period of 60 days from the date of the forum. No more than 60 days after the comment period has closed, the State entity shall provide written responses to the comments presented.

Whenever a public process is already required by any other State or federal law, or any rule or regulation adopted pursuant thereto, for a project that includes forested land scheduled for deforestation, the State entity shall not be required to conduct a separate public forum to comply with the provisions of this section, provided that the public forum requirements established herein are also met at the public forum or hearing conducted pursuant to any other State or federal law. The State entity shall clearly advise the public in its agenda for the public forum that a reforestation plan will be presented. Copies of written responses to the public comments shall be provided by the State entity to the division at the close of the comment period.

3. Section 3 of P.L.1993, c.106 (C.13:1L-14.3) is amended to read as follows:

C.13:1L-14.3 Nonapplicability of act.

3. The requirements of this act shall not apply to activities that are deemed by the division to constitute standard forestry, wildlife management, or arboricultural practices, or to actively managed existing utility easements.

4. This act shall take effect immediately, but shall not apply to capital construction projects that are scheduled to be advertised for bid by a State entity within one year after the date of enactment.

Approved January 29, 2001.