



ESFPA *"The People Behind New York's Healthy Forests and Quality Wood Products"*

the Empire ENVOY

The Official Publication of the Empire State Forest Products Association

FOREST PRODUCTS BUSINESSES DESIGNATED ESSENTIAL BUSINESS WORKFORCE

Executive Order 202.6 began the process of designating certain businesses and their workforce as "Essential Businesses" which effectively meant that these businesses could continue to operate as necessary to provide services and products necessary to address the emergency of coronavirus. If a business was not designated as "Essential" they had to achieve workforce reductions of 100% through May 15th. The Empire State Development Corporation (ESDC) published their list of Essential Businesses on March 18 and all non-essential businesses had to comply with the required workforce reductions by 8 p.m. on Sunday March 22nd, for many that meant closure.

Initially, the ESDC Essential Business list for wood product businesses only included paper production and was subsequently revised to household paper production. That meant that much of New York's wood products sector would be non-essential unless they were directly within the supply chain to paper production of household products. Working feverously (pardon the pun) while the final essential business decisions were being made, ESFPA worked with the Department of Agriculture & Markets and Department of Environmental Conservation for a broader and more inclusive definition of forest products.

On the afternoon of March 22nd, just hours before the 8 p.m. compliance deadline, The Governor's office approved the following definition of forest products businesses:

- **Forest products businesses, including those involved in forestry operations, logging, manufacture of lumber and paper products, and the distribution of those products are essential and exempt from the State's guidance for workforce reduction.**

This is a substantial expansion of businesses that are now included in the guidance for Essential Businesses. This enabled our sector to operate while the workforce reductions affected other businesses across the State. While there are any number of value chain and market conditions which are affecting business operations as the coronavirus circumstances unfold, this designation staved off the most severe early impacts that could have happened. ESFPA wants to thank those in Ag. & Markets and DEC who worked with our staff and Executive Committee Board members to help get this definition included in "Essential Businesses" and continuing to work with us as we manage thru this crisis.

ESFPA COVID-19 Response

Since March 7th ESFPA has been planning for and responding to the COVID-19 crisis both internally and among the membership, state and federal government. While only a few weeks ago operations and policy were progressing normally, the world has changed, and we have along with it.

Internally, ESFPA is a non-essential business and pursuant to Executive Order 202.6 (as amended) we have instituted a remote work policy where we are working from our homes through May 15th and longer if required. Our operations continue as usual and you can reach us through our office and cell phones as well as email. Fortunately for us we upgraded our entire IT system as of the end of 2019 so remote access to all our IT systems is seamless.

Among our membership, partners, and advocacy audiences we have been active handling both COVID-19 and Budget issues and priorities. Since March 7th we have issued over 30 ESFPA Alerts on COVID-19 trying to bring forth the most timely and relevant information on resources and guides available for businesses and employees. As outlined below, the 2020-21 NYS Budget was good for our members with some exceptions on paid sick leave and prevailing wage requirements.

As our chair Mike McLarty has covered in his message to members, we have strived to deliver results for our members in an informative and timely manner. Despite the evolving business and legislative environments, we will continue to represent your interests in Albany and Washington despite these changes.

The Empire Envoy

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Founded in 1906, ESFPA is dedicated to improving the economic climate for the forest products industry and to promote management of New York's Forests to meet the resource needs of today and for future generations. ESFPA counts among its 400 members furniture companies, lumber manufacturers, forest landowners, timber harvesters, pulp and paper companies, and other wood products manufacturers from across New York State. Members own and manage 1.5 million acres of New York's forests and employ over one-third of the 60,000 individuals who work in the forests and wood-using mills around the state. **The Empire Envoy** is the newsletter of the Empire State Forest Products Association, Copyright© by ESFPA. Articles may be reproduced with permission of the publisher. **The Empire Envoy** is produced monthly for ESFPA members and interested parties. For information on subscriptions or membership, please contact ESFPA.

Chairman's Remarks

Michael McLarty, ESFPA Chairman of the Board

As I write this letter my hope is that our membership is healthy and managing in these difficult times. Since my last letter to the membership in January, much has changed. The Coronavirus pandemic has both changed the business environment we operate in and even more broadly our daily lives; economic uncertainties, social distancing and stay-at-home directives have consumed our daily activities. Through this same period, the ESFPA has remained operational and has continued to advocate for and support our membership. As always, I want to recognize the tremendous job our ESFPA team does; John, Muriel and Janet have risen to the challenge of supporting our needs in these difficult times.

The purpose of this letter is three-fold. First, I wanted to convey my best wishes to our membership, their employees, their families and their communities. While current restrictions are challenging and the business environment volatile, I am confident the spirit and type of people that make up our industry will survive, thrive and persevere. Secondly, I want to communicate to our membership the recent accomplishments and value the ESFPA offered in response the Coronavirus outbreak and business restrictions. While there are far too many to list all accomplishments, I highlight the following:

- "Essential Business" Designation- when Coronavirus business restrictions began to be put in place, there was uncertainty on whether the forest products industry and the accompanying supply chains were an "essential business" and if we could operate legally under the restrictions. During this time one non-member forest industry manufacturer requested designation and was deemed "non-essential" with a requirement to shut down. During this same period of about 7 days the ESFPA worked around the clock corresponding with State officials providing guidance and lobbying for our membership's value to society during this crisis. After this tireless work, the New York State Department of Agriculture and Markets provided absolute guidance that our industry was an "Essential Business" and could continue to operate during the restrictions (including allowing the previous mentioned non-member to be able to restart).
- Forestry Awareness Day- Originally scheduled as an in-person lobby day at the Capital to bring forth our concerns with upcoming budget items, the event clearly was not going to be able to happen as planned. Instead of cancelling like many other organizations did for their lobby day, our ESFPA staff in 48 hours adapted and organized a series of conference calls with the key legislators and delivered our legislative input and requests. When the budget was passed just over a week ago, it was clear our strategy was effective as we had almost all our requests and changes accommodated for.

(See "Chairman's Remarks" continued on page 11)

ESFPA Sustaining Members



The Forestland Group, LLC



STATE NEWS

ENACTED STATE BUDGET

Despite the coronavirus, the Governor and New York State Legislature enacted the New York State Budget for State Fiscal Year 2020-21 on April 3rd. A couple of days late, a bit lighter in some policy areas, and negotiated and voted on remotely while maintaining social distancing. In a very non-traditional way, the Budget process resulted in a budget that was slightly reduced from what Governor Cuomo proposed in January, \$177 billion as opposed to \$178 billion. The Budget does, however, provide significant authorization for the Director of the Division of Budget (DOB) to make expenditure adjustments should revenues not come in as expected or expenses rise in categories (i.e. emergency expenses) not fully included in the budget. DOB will make recommendations to the Governor in April, September and December to make budget adjustments that could have significant impacts.

Overall, the SFY 220-21 Budget was good for our forests and wood products sector. Many items we advocated in support of were included. Some items we advocated against were omitted, albeit we will have to watch for the remainder of the legislative session to be sure some of these go our way. Some items were enacted despite our objections and concerns. The following provides a summary of how those parts of the Budget that we tracked came out.

Environmental Protection Fund (EPF)

Continues full EPF funding at \$300 million. The EPF includes funding in areas for land acquisition (with a focus on easements), invasive species and urban forestry which ESFPA has traditionally supported. This year's proposal also **continues funding for**: Wood Products Development Council \$200,000; Regenerate NY \$500,000 (private forest stewardship); and, Hemlock Woolly Adelgid \$500,000. In addition, the EPF includes **two new lines in the EPF**: Community Forests \$500,000; and, Easements for Land Trusts \$1.5 million (Executive proposed at \$3 million)

Authorize the New York State Energy Research and Development Authority to finance energy and climate programs at NYSERDA, DEC and Agriculture & Markets from new assessments on gas and electric corporations.

Authorizes NYSERDA to finance its energy research, development and demonstration program, its energy policy and planning program, climate change related expenses of the Department of Environmental Conservation (DEC) and the Department of Agriculture and Markets' (AGM) Fuel NY program, from a **special assessment on gas and electric corporations**. This special assessment is in addition to the special assessment under Section 18-a of the Public Service Law which authorizes the Department of Public Service to assess gas and electric corporations for expenses related to administering Public Service Law programs.

Ban Single-Use and Loose-fill Polystyrene Products

This legislation **bans the sale, use, or distribution of disposable food service containers made of expanded polystyrene, and the sale, use, or distribution of polystyrene loose fill packaging**.

Beginning January 1, 2022, no covered food service provider or store is allowed to sell, offer for sale, use, or distribute disposable food service containers (commonly known as

Styrofoam) used to hold prepared food or beverages that contain expanded polystyrene foam or distribute polystyrene loose fill packaging (commonly known as packing peanuts).

The law exempts prepackaged food filled or sealed prior to receipt at a covered food service provider, as well as raw meat or raw fish sold for the purpose of cooking or preparing off premises by the customer. In addition, covered food service providers that demonstrate undue financial hardship, as determined by the Department, could be exempted from the polystyrene container ban, and food service providers with ten or more locations would not be eligible for an exemption.

In addition, the bill authorizes DEC to: undertake a review of additional product packaging and based on the environmental impacts of such products promulgate regulations to limit the sale, use, or distribution of such products; conduct education and outreach in multiple languages to covered food service providers, manufacturers, and stores to inform them of the polystyrene ban; and promulgate rules and regulations necessary to implement the act.

The law preempts local laws which are inconsistent with the act but would not preempt local laws or ordinances by any county that is at least as comprehensive as the provisions set forth in the bill.

Authorize the \$3 billion Environmental Bond Act of 2020 "Restore Mother Nature" to be submitted for voter approval in November of 2020 and allocate funding to projects.

The Environmental Bond Act of 2020 "Restore Mother Nature," Part QQ authorizes the issuance of \$3 billion of bonds to finance environmental improvements that preserve, enhance, and restore New York's natural resources and reduce the impact of climate change. Capital projects eligible to be financed include those to: restore habitats and reduce flood risk; improve water quality; protect open space, preserve forest and invest in recreational infrastructure associated there to; expand the use of renewable energy to mitigate climate change; and other such projects that preserve, enhance, and restore the quality of the state's environment.

Bond proceeds would support the cost of approved projects for such purposes in accordance with implementing legislation under Part RR to implement the Act and include:

- Restoration and flood risk reduction.
- Open space land conservation and recreation.
- Climate change mitigation.
- Water quality improvement and resilient infrastructure.
- Environmental justice and reporting.

The implementing legislation provides the project eligibility detail and allocation that ESFPA was looking for. ESFPA will provide a more detailed breakdown of funding in a separate bulletin so our members can better judge their individual vote on the referendum.

Product Stewardship Program

The Governor's proposal would have created a new Product Stewardship Program for the recycling of carpets and mattresses

(See "Enacted State Budget" continued on page 4)

ENACTED STATE BUDGET *(continued from page 3)*

as well as develop the framework for future stewardship programs. **This legislation was intentionally omitted from the Budget and will be negotiated separately.**

Amendments to the Freshwater Wetlands Regulatory Program

This proposal was proposed by the Governor to facilitate implementation of the Restore Mother Nature initiative by amending New York's Freshwater Wetlands Act to reclassify wetland maps as educational and focusing conservation attention on critically important wetlands. **This legislation was intentionally omitted from the Budget and will be negotiated separately.**

Require Prevailing Wage to be Paid on Certain Private Construction Projects

This legislation requires prevailing wage to be paid on construction projects that receive a substantial public subsidy, to ensure that public dollars going to construction projects support fair wages for workers on those projects. This proposal **requires prevailing wage to be paid on certain construction projects that are funded with public funds.** This includes projects that are paid for with at least **30 percent public funds** and where **project costs are over \$5 million.** Public subsidy may include money as well savings from reduced taxes as a result of tax credits, tax abatements, tax exemptions or tax increment financing.

Accelerated Renewable Energy Growth and Community Benefit Act

This legislation amends the Public Service Law, the Executive Law, the Public Authorities Law, the Environmental Conservation Law and the State Finance Law, in relation to accelerating the growth of renewable energy facilities and transmission lines to meet critical state energy policy goals as outlined in the Climate Leadership & Community Protection Act. The proposal applies to large and mid-sized renewable projects, energy storage, and transmission, as well as directing the state's agencies and public authorities to establish incentive programs to deliver shovel-ready, permitted sites to developers.

The legislation **consolidates the environmental review and permitting of renewable projects** of 25 MW and above, while allowing projects of 10 MW up to 25 MW to opt into the new process. Project applications must be given a completeness determination within 60 days, and a final determination on permits within one year of the submission of a complete application. ESFPA will develop a separate briefing paper on the proposal.

Reduce Tax Burden on Small Business

This proposal would have made four amendments to existing tax cuts intended to further alleviate the tax burden on small businesses. **The Legislature did not accept the Governor's proposal to expand these tax credits.**

Green Economy Tax Credit.

The budget expands the Excelsior Tax Credit program to create a new refundable, discretionary Green Jobs Tax Credit totaling up to 7.5 percent of wages for each net new job created fostering the expansion of green economy businesses and position New York State to further capitalize on significant

projected green economic growth. The legislation also creates a refundable, discretionary Green Investment Tax Credit totaling up to 5 percent of qualifying new capital investments in connection with qualifying green economy projects and increasing to up to 8 percent of eligible investment for research and development in qualifying green economy projects.

ESFPA was seeking clarification on the definition of "green project" to see if New York's existing and potentially new bioeconomy businesses and jobs based on forest and wood products are included. As enacted the definition of "green project" read – "shall include, but not be limited to, the manufacture or development of products or technologies or supply chain components primarily for renewable energy systems as defined in section sixty-six-p of the public service law. **As we read it this does not limit green projects only to those under Public Service Law section 66P (2) but may include others as recognized by Empire State Development Corporation. ESFPA will now have to monitor that biomass projects and projects in the bioeconomy get recognized by ESDC.** The definition of green project had enumerated "carbon capture and storage" as an eligible project, but that was eliminated in the amended and final bill.

Mandatory Sick Leave

This Budget adds a new section 196-b to the Labor Law to require:

- Restoration and flood risk reduction.
- employers with 0-4 employees to provide forty hours of unpaid sick leave each calendar year.
- employers with 5-99 employees to provide forty hours of paid sick leave each calendar year: and,
- employers with 100 or more employees to provide fifty-six paid sick leave hours each calendar year.

The legislation does provide details as to how mandatory sick leave will be allocated among or separate from other leave provided by the employer and allowed use of sick leave. The employer shall not be required to provide any additional sick leave pursuant to this legislation if the employer has adopted a sick leave policy or time off policy that provides employees with an amount of leave which meets or exceeds the requirements set forth in this legislation and satisfies the accrual, carryover, and use requirements of this new law. Sick leave may be accrued from year to year but can be capped in use for any given year at the amounts outlined above. Nothing requires compensation of employees for unused sick leave if they are terminated, resigned, retired or otherwise separated from employment.

Workers Compensation

Late in the Budget negotiations, ESFPA became aware of a budget proposal that would make COVID-19 a presumptive occupational disease for workers' compensation purposes. The cost of this proposal on the comp system (and, ultimately on employers' premiums), is incalculable and it would likely bankrupt the State Insurance Fund, the state operated "carrier of last resort", as well as some commercial carriers. In our case the New York Lumberman's Trust would also experience deleterious impacts affecting most of our members. It is impossible to say with any precision what impact this would have on employer premiums, but the impact would be massive. **This proposal is not included in the 2021 Budget.**

CLIMATE ACTION COUNCIL MEETS

On March 3rd, the Climate Action Council held its inaugural meeting in Albany. The 22-member Council (10 non-agency appointments and 12 agency heads) is being tasked with determining how the state will reach emissions goals of an 85 percent reduction from 1990 levels by 2050 with a deadline of January 2022.

The meeting was largely an introductory meeting of the Council with presentations and background on the Council's role and responsibilities under the Climate Leadership & Community Protection Act. You can see all the presentations and a video feed of the Council meeting at the new web site <https://climate.ny.gov/>. The web site will maintain all the records, reports and activities of the Council going forward. As part of the presentation a PowerPoint outlined the major roles and responsibilities of the Council that listed the following items:

- Climate Action Council: Prepare and approve a scoping plan of recommendations to achieve 40x30, 85x50, carbon neutrality.
- Climate Justice Working Group: Establish criteria to identify and develop a list of disadvantaged communities.

- Just Transition Working Group: Conduct a study on job creation and workforce disruption related to the transition to a low carbon economy.
- PSC: Establish a program requiring load serving entities meet 70x30 and 100x40 targets.
- DEC: Promulgate the statewide greenhouse gas emissions limit regulation; establish a value of carbon; issue annual reports on statewide greenhouse gas emissions; promulgate regulations to implement the scoping plan.
- All Agencies: Implement strategies to reduce emissions; consider consistency with the Act in agency decisions.

The Climate Action Council will also appoint at least 6 Advisory Panels to assist it in its work. DEC Commissioner Basil Seggos made it clear that the Advisory Panels will conduct much of the background work of the Council. ESFPA has submitted names to be considered on all the Advisory panels and is hoping to have a major role in the Agriculture & Forestry Advisory Panel.

The Council had scheduled its next meeting for April 2nd, which would have announced the Advisory Panels. Due to the coronavirus and limitations on meetings, the April 2nd Council meeting has been postponed.

STATE FOREST ACTION PLAN

The State Forest Action Plan (Plan) is a 10-year strategic plan for New York's forestry community. The purpose of the Plan is to provide long-term, comprehensive, coordinated strategies for investing state, federal and leveraged partner resources in major management and landscape priorities.

Under the federal Farm Bill, every 10 years each state must submit a State Forest Action Plan to the U.S. Forest Service. The Plan must be approved by the State Forester, who in New York is the director of DEC's Division of Lands and Forests. The next update of the Plan must be submitted to the Forest Service by June 2020.

DEC has published the 2020 Draft State Forest Action Plan in February with public comments which were due by April 3rd. You can find the Draft plan at <https://www.dec.ny.gov/lands/60829.html>. The Draft Plan identifies four primary goals for New York's Forests, and proposes strategies for addressing each goal:

- Keep New York's forests as forests
- Keep New York's forests healthy
- Ensure forests benefit humans and all living creatures
- Ensure support, protection, and appreciation of New York's Forests

ESFPA submitted comments on the plan which can be found at our web site www.esfpa.org under the ESFPA Policy Positions menu. We had a number of comments on the plan, but overall stressed that this is a tremendous opportunity for the Department to emphasize the significance and contribution that private forest lands have to the people and resources of New York and the role that that wood product markets have in helping private forest landowners in keeping those forests as forest. DEC will review comments and complete a final Plan by the June 2020 deadline.

POST BUDGET LEGISLATIVE WATCH

With an enacted SFY 2020-21 Budget we now turn to legislation that is before the State Legislature through the remainder of the 2020 Legislative Session. While there remain a lot of questions as to just how much legislating will be done during the COVID -19 crisis, there are a few policy questions and bills that we at ESFPA will be watching and working on.

The NYS Legislature is still scheduled to remain in Session until June 2nd. This is a slightly shortened session due to primaries that are scheduled to be held on June 23rd and there is still the provision for the legislature to vote remotely under resolutions that the Senate and Assembly have both passed in March in order to get the Budget done with the NY Pause order in place. Whether they use this process remains a question, but the potential exists.

ESFPA is tracking 145 individual bills (including Same-As Bills) presently introduced in the NYS Legislature for the 2019-2020 Legislative Session and monitors those bills of interest/impact on our Membership and reports monthly to the Board on status.

To date ESFPA has filed 10 Memorandum of Support and 11 Memorandum of Opposition on bills thus filed. These bills are summarized below and you are directed to our web site at www.esfpa.org where you can see our complete Bill Tracking Reports and copies of filed memorandum. Look under the Legislative Bill Tracking menu.

There are also several bills (37) summarized in this report where ESFPA has not yet taken a position and we would appreciate feedback on those bills.

There are an additional 87 bills that ESFPA is monitoring which we do not expect any movement on in the current legislative session.

As we look to the rest of the Legislative Session, the following 6 bills are among our highest priority:

- 1 . Freshwater Wetlands
 - a . Governor's proposal omitted from Budget
 - b . A. 3658 (Englebright)/S. 7366 (Harckham) – remains in play. This bill would **amend the definition of freshwater wetlands**; extend the Department of Environmental Conservation's jurisdiction to wetlands over 1 acre; revise the process for designation mapping and notification of draft wetland areas; potentially eliminate a 49 year-old forestry and silviculture exemption from permits; and, expand wetland regulatory jurisdiction to the subdivision of property.
- 2 . Product Stewardship Program (EPR)
 - a . Governor's proposal applying to mattresses and carpeting omitted from the Budget
 - b . A. 9790 (Englebright) **Product Packaging Program** - Relates to requiring producers to establish a plan **to collect at least 80% of packaging in the state**
 - c . A. 9832 (Englebright) Relates to declaring the goal of the state of New York to source **reduce, reuse, recycle, or compost no less than 85% of the solid waste** generated by the year 2030.
 - d . S. 7718 (Kaminsky) Establishes the **Extended Producer Responsibility Act** requiring covered

- materials and product producers to develop and implement strategies to promote recycling, reuse and recovery of packaging and paper products.
- 3 . Stream Protection of Water Regulatory Program
 - a . A. 8349 (Ryan)/S. 5612 (Harckham) – Passed Assembly - This legislation would **reclassify class C waterways** as streams for the purpose of adding them to the Protection of Waters Regulatory Program. ESFPA is working with NYFB to revise this legislation in obtaining forestry and agricultural exemptions.
- 4 . Low Carbon Fuels Standard
 - a . A 5262 (Woerner)/S. 4003 (Parker) - Establishes the **low carbon fuel standard**; such standard is intended to reduce greenhouse gas emissions from the transportation sector by 20% by 2030, with further reductions to be implemented based upon advances in technology. Bill remains in respective Environmental Conservation Committees.
- 5 . Climate & Community Investment Act
 - a . A 9856 (Cahill)/ S 3616 (Parker) - Enacts the **Climate & Community Investment Act**; establishes the climate justice working group; establishes the worker and community assurance program; establishes the community just transition program; establishes the climate jobs and infrastructure program; imposes a fee on carbon based fuel sold, used or brought into the state by an applicable entity; establishes trust funds; establishes a rebate program. This act seeks to transition NY to 100% renewable energy, create hundreds of thousands of jobs, protect workers currently in the fossil fuel industry and support the communities most impacted by climate change and pollution.
- 6 . Adirondack CD Bill
 - a . A. 8123 (Englebright)/ S. 6484 (Kaminsky) - This bill would require Adirondack Park residential subdivisions that meet certain size thresholds to comply with certain **conservation subdivision design** criteria. ESFPA signed off on memo to support issued by the Common Ground Alliance group on 1/16/20.

If you have any questions regarding these proposals or any other legislation, please do not hesitate to contact us.



OTHER NEWS

Message from Your Staff at ESFPA

The surreal atmosphere of the COVID-19 pandemic has had a grip on everyone's business, life, and reality for a couple of months. The coronavirus has struck with unprecedented scale and ferocity. Its spread was exponential: and its impacts on our health, our economy and our way of life have been staggering.

The New York State and federal governments have done a solid job in avoiding immediate catastrophe. The ultimate test will be whether the virus's spread can be arrested and then reversed in a manner and at a scale that maintains public confidence in our ability to recover. The crisis effort, however vast and necessary, must not crowd out the urgent task now of launching a parallel enterprise for the transition to the post-coronavirus social and economic order.

Just how do we re-establish social and economic order? First, shore up resilience to infectious disease and ensure that we can contain and eradicate a global disease. Realize the role that each of us has both individually and corporately to slow the spread, sustain some order and now recover physically, mentally and socially.

Second, strive to heal the wounds to the economy. So many of our businesses, large and small; value and supply chains; and our investment confidence have been shocked and disrupted that getting back to some semblance of normal will be challenging. Fortunately, in the crisis we were able to ensure

that forest businesses and our supply chains were deemed "Essential" and many were able to limp through a challenging quarter. But resilient we are and can be.

Third, safeguard the principles of the entrepreneurship and private sector investment that will be necessary in leading us on a pathway to recovery. We have been through these challenges before from the Great Depression to the Great Recession. Now, we live in another defining period that challenges our leaders to manage and invest in building a future for us and our children. The forest and wood products sector has a continuing and significant role in this recovery and we at ESFPA will work to ensure that is recognized in Albany and Washington just as we did in the crisis.

At ESFPA we are working to help ensure that our State and federal government recognize the role that our business leaders have in making this recovery happen. How, if supported and unleashed, these businesses, large and small, investors can bring back social and economic order within our sector and inter-related sectors across the economy. Locally, we can affect recovery nationally and globally.

At this critical time, we thank our members for their continued support and we promise that we will double-down on our efforts to ensure that you get the support and opportunity to contribute to another recovery.

2020 ARBOR DAY POSTER

Basil Seggos, commissioner of the New York State Department of Environmental Conservation, named Paul Bergwall, of Honeoye Falls, as winner of the 2020 Arbor Day artwork contest.

Congratulations to Paul Bergwall for taking this year's honor in truly capturing the countless benefits and beauty that trees provide every day.

The annual contest accepts artwork and photography submissions of trees in New York state. The winning design is featured on the state's official Arbor Day poster and is selected by a committee of representatives from the DEC, NYS Department of Agriculture and Markets, International Paper, Empire State Forest Products Association, and NYS Arborist Association.

Arbor Day is held on the last Friday of April and was established to encourage farmers and homesteaders to plant trees for shade, fuel and beauty in open areas. Now, it is a chance to celebrate the vital role of trees in everyday life.



2020 Arbor Day Photo Winner

CELEBRATING EARTH DAY

April 22nd marked the 50th global anniversary of Earth Day and our forests are decisively the largest landscape scale natural resource in New York State. Earth Day 1970 was also the birthday of today's Department of Environmental Conservation, and today marks its 50th birthday. Our forests, along with fish and game, were the principle foundation of environmental conservation going back to 1865 and the first Forest Commission over seeing the Forest preserve initiative and in 1895, the legislature consolidated different agencies into one Fisheries, Game, and Forest Commission in an attempt to better enforce hunting and fishing laws. In 1897, a three-member Forest Preserve Board was created to supervise

the Adirondacks and Catskills. Our forests today are the largest they have been since Colonial times and they remain an environmental resource that provides clean air, clean water, natural solutions to climate change and jobs for thousands of New Yorkers.

ESFPA Executive Director John Bartow was asked to produce a video celebrating 50 years of Earth Day and DEC and you can see this video on our website at www.esfpa.org. As we celebrate Earth Day and DEC's anniversary, let's also celebrate the benefits that forests and the products derived from them provide to every New Yorker.



NYLT CANCELS REMAINDER OF SPRING 2020 WORKSHOPS

On Wednesday, March 18, 2020 the New York Logger Training, Inc. Board of Directors, along with various partners and cooperators, developed a flexible plan to assure that certifications and recertification procedures are in place while Coronavirus restrictions were still followed. Workshops were initially cancelled through the end of April, with a provision for re-evaluation by April 20th. Since then, although the forest product sector was deemed "essential", the NY PAUSE act has been extended through May 15th (at the time of printing). Therefore, after much consideration, the NYLT Board has decided to cancel all workshops for the remainder of the spring season. We are currently planning on a typical Fall schedule if the restrictions allow.

In addition to the schedule modification, NYLT, Inc. Board has made the following decisions:

- NYLT will grant a reprieve on certification and recertification through 12/18/2020, to allow participants to utilize training in the Fall Training Session which will begin in September 2020.

- NYLT will allow up to three credits towards recertification to be acquired online.

We have worked with the Department of Environmental Conservation (DEC) and third-party certified member companies to ensure that flexibility and discretion will be used in the requirements for harvesting on Certified lands and securing certified timber and fiber through 12/18/20 as well as delivery standards at yards. Both the Programme for Endorsement of Forest Certification Systems (PEFC) and Sustainable Forest Initiative (SFI) have released guidance in consideration of the COVID-19 event to its certificate holders intended to address the impact travel restrictions and health concerns may have on certification requirements and audits.

If you have any questions, the NYLT staff is currently working remotely and can be reached at (518)463-1297 or mchurch@esfpa.org and janet@esfpa.org.



www.facebook.com/EmpireStateForestProductsAssociation

FEDERAL NEWS

FEDERAL STIMULUS PROGRAMS

Congress has passed, and the President has signed, four pieces of legislation to address the medical and economic strains resulting from the COVID-19 (Coronavirus) pandemic. The first bill, signed March 3rd provided \$8.3 billion for health providers, disease testing and small-business loan subsidies. On March 18th a second relief package of about \$100 billion went into effect that included tax credits for employers offering paid sick leave and increases to unemployment benefits and food assistance.

On March 27th President Trump signed the third phase of relief, the Coronavirus Aid, Relief, and Economic Security (CARES) Act following passage in the House and Senate. The CARES Act provides around \$2 trillion in wide-reaching support measures including direct payments to citizens, loans and grants to small and medium business, and support for medical and first responders.

On April 22nd, Congress enacted and the President signed yet a 4th round of federal stimulus totaling \$480 billion.

Several programs emerging from these last few weeks of rare bipartisan effort include the forest products industry. Several are listed below. Please note that application processes and guidelines for most of these programs are evolving, demand is high, and many are on a first come first serve basis. We will work to keep you posted as more information becomes available.

- **Disaster Assistance Loans** – used for natural disasters in standard times, the Disaster Assistance provided by the Small Business Administration (SBA) allows for affordable financial help to businesses in declared disaster zones (of which all 50 states have been declared for COVID -19). This allows for economic injury loans of up to \$2 million at a low rate.
- **Paycheck Protection Program (PPP)** – expands the emergency lending program housed in the Small Business Administration (SBA) 7(a) lending program. The PPP had \$349 billion in lending capacity available to businesses and qualifying entities with fewer than 500 employees and allows for federally insured, and had fully forgivable loans up to \$10 million if all criteria are met.
- **Net Operating Losses (NOLs)** -- relaxes the limitations on a company's use of losses from prior years. The Tax Cuts and Jobs Act had eliminated for most taxpayers the use of so-called net operating loss (NOL) carrybacks. The CARES Act would allow losses from 2018, 2019, or 2020 to be carried back five years. The provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income. The goal of this language is to allow companies to utilize losses and amend prior years' returns, which will provide critical cash flow and liquidity during the COVID-19 emergency.
- **Deferred Social Security Tax Payment** -- allows

employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees. Employers generally are responsible for paying a 6.2% Social Security tax on employee wages. The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022.

- **Refundable Payroll Tax Credit** -- authorizes a refundable payroll tax credit for 50% of wages paid by employers to employees during the COVID-19 crisis. The credit is available to employers whose (1) operations were fully or partially suspended, due to a COVID-19-related shut-down order, or (2) gross receipts declined by more than 50% when compared to the same quarter in the prior year. The credit is based on qualified wages paid to the employee. For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above.
- **Corporate AMT Credits** -- The corporate alternative minimum tax (AMT) was repealed as part of the Tax Cuts and Jobs Act, but corporate AMT credits were made available as refundable credits over several years, ending in 2021. The provision accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now and obtain additional cash flow during the COVID-19 emergency.
- **Business Interest Limitation** — temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing the 30% limitation to 50% of taxable income (with adjustments) for 2019 and 2020. As businesses look to weather the storm of the current crisis, this provision will allow them to increase liquidity with a reduced cost of capital, so that they are able to continue operations and keep employees on payroll.
- **S-Corp and Pass Throughs** — language modifies the limitation on losses for taxpayers other than corporations. The provision modifies the loss limitation applicable to pass-through businesses and sole proprietors, so they can utilize excess business losses and access critical cash flow to maintain operations and payroll for their employees.

You should consult with your financial officers, accounting professionals and tax associates about the above provisions to ensure that you take full advantage of their benefits.

WETLAND RULINGS AND UPDATES

In late January 2020, the Environmental Protection Agency released its final rule defining “Waters of the US” (WOTUS) over which EPA will have regulatory jurisdiction. The final regulation excludes from EPA jurisdiction several water features, including the following of importance to private forest management:

Ephemeral streams, defined as flowing only in direct response to precipitation,

Manmade ditches that do not flow into a regulated water, and

Wetlands that do not touch a regulated water of the US.

The effect of these exclusions is that the listed water features will NOT, by themselves, subject timberland to EPA Clean Water Act permit requirements governing such things as the aerial application of pesticides. The wetlands exclusion also significantly strengthens the application of “normal silviculture” permit exemption for forested wetlands which has been around since 1977.

Governor Cuomo in his Budget Article VII bills this year also introduced legislation which would have strengthened New York’s wetlands regulations which was different from legislation introduced in the Legislature, A. 3658 (Englebright)/S. 7366 (Harckham). These New York proposals are in part being advanced in response to what some perceive as federal role back on wetland’s regulations. The problem with the Governor’s and Legislature’s proposal is that they would change a 49-year standing exemption for forest practices in and adjacent to wetlands.

ESFPA has been successful in holding off changes to NY’s wetlands law as it would impact silviculture exemptions and we have reached consensus among several environmental organizations to remove any changes to the silviculture exemption. COVID-19 has taken attention away from this legislation now, but we must remain vigilant to this legislation advancing in its current form. We continue to work with Senator Harckham and Assemblyman Englebright on changing this legislation and are optimistic that amendments to the bill will be considered.

FEDERAL AND NEW YORK STATE TAX FILING & PAYMENT DEADLINES MOVED

The U.S. Treasury Department and Internal Revenue Service announced that the federal income tax filing due date is automatically extended from April 15, 2020, to July 15, 2020. Following suit, the NYS Tax Commissioner has extended the April 15, 2020 due date to July 15, 2020, for New York State personal income tax and corporation tax returns originally due on April 15, 2020. Taxpayers can also defer federal and state income tax payments due on April 15, 2020, to July 15, 2020, without penalties and interest, regardless of the amount owed. This deferment applies to all taxpayers, including individuals, trusts and estates, corporations and other non-corporate tax filers as well as those who pay self-employment tax.



WELCOME NEW ESFPA MEMBERS
(AS OF MARCH 18, 2020)

CNY Crops Plainville, LLC.....Plainville, NY

John Turton TruckingUlysses, PA

Sawtooth Lands and ForestryChester, NY

Members are approved quarterly at each Board of Directors Meeting



ESFPA Headquarters at the NY Forestry Resource Center, Rensselaer NY

CHAIRMAN'S REMARKS

Michael McLarty, ESFPA Chairman of the Board

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- ESFPA Board Meeting: with such volatile times it was critical that our Board Members meet and guide our ESFPA team. Our board meeting was planned for the same time the entire crisis was just unfolding and having an in-person meeting was not going to be an option. In 36 hours our ESFPA team adapted, planned and executed the first all-digital board meeting. During this meeting we were able to prepare the organization to best serve our members in the upcoming months
- Business Assistance Information- there has been different programs and assistance packages emerging from the State and Federal governments. Our ESFPA team has been busy tracking them and interpreting whether they have applicability to our members. If they do, the team has been promptly getting the message out through our ESFPA Alert system.

The third reason for writing this letter was to hopefully use the noted accomplishments as a reminder to our membership of the value we provide. My hope is that this value has met your expectations as a member, and you can take this value proposition and our accomplishments and communicate that to prospective new members. It is through our current members and bringing on new members that we can continue to run the organization and deliver our services.

In closing I reflect on the value, perseverance and toughness of our industry. Our industry has provided society with the products they need while ensuring that the resource that provides for those products is around for future generations. The industry has survived World Wars, depressions, recessions and many other challenges and always thrived on the other side, a testament to the people. ESFPA will be with you, our members, through these challenging times and in the better times beyond.



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**Congratulations to all New and Renewed
New York Logger Training Certified Loggers
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