



EMPIRE STATE FOREST PRODUCTS ASSOCIATION

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**Empire State Forest Products Association
Oral Testimony
on the
FY 2022-23 Executive Budget Proposal
for
Transportation, Economic Development & Environmental Conservation
Submitted February 27, 2022**

Freshwater Wetland Act Amendments – TED Part QQ - Oppose unless amended

This proposal would make strategic changes to the State’s freshwater wetlands program (ECL Article 24). The proposal retains base regulation of wetlands 12.4 acres or larger but would allow the Commissioner of DEC to designate smaller, “locally significant wetlands.” It also would remove the requirements for mapped wetlands and allow DEC to maintain digitized maps of wetlands on tier web site (the E-mapper). Applicants would have to have DEC, or a third party delineate wetlands as part of the regulatory process.

ESFPA is opposed to this bill because of language changes that eliminate a 50+ - year exemption for certain silvicultural practices. ESFPA has worked on similar legislation (A. 7850/S. 5116-C) where sponsors Assemblyman Englebright and Senator Harckham have retained the silviculture exemption.

Extended Producer Responsibility – TED Part RR - OPPOSE

Extended Producer Responsibility (EPR) programs are a fundamental transfer of the responsibility and cost of collection, recovery, recycling, and end-of-life management of covered products from municipalities and taxpayers to producers of covered products. New York has EPR programs for batteries, tires, mercury, etc. but these are point-of-sale EPR programs. This proposal would create an EPR program for packaging and paper products and: define the products and entities covered; provide for establishing producer responsibility organizations; allow for the establishment of minimum recycling rates and post-consumer recycled content rates; and create minimum convenience standards.

EPR programs can be an effective policy tool for products that are difficult to process, have low recycling rates, or where healthy end markets do not exist; but none of these issues apply to paper-based packaging. ESFPA opposes the inclusion of paper and paper-based packaging in a broad EPR program for the following reasons:

- Paper and paper-based packaging are highly recovered and recycled with a recovery and recycling rate over 63% since 2009
- Including paper and paper packaging in a broad EPR could result in cross-subsidization of materials that largely do not share these high recycling characteristics.
- Recycled content mandates are not a one-size-fits-all solution. Content requirements should focus on materials with low utilization rates.

- Legislation should take all fiber sources into consideration. New York has both virgin and recovered fiber available. Our virgin fiber mills support largely unionized family wage jobs within state borders. Virgin pulp supply is needed to sustain or grow recovered fiber.
- Robust state or regional needs assessment prior to the implementation of any EPR program. There must be a baseline to establish pre-existing collection methods and identify current processing infrastructure, waste management practices, and costs.
- China National Sword (*mentioned in Governor's state of the state*) which impacted recovery and recycling rates in 2018 is significantly diminishing in US markets. Recovered paper consumption and pricing in the US is increasing.
- Robust investment in end market use for recovered paper is an essential pillar of the industry's success. Private paper investors have brought more than \$5 billion in capital investment to expand or build new recycling capacity for the 2019-2023 period.

Clean Water, Clean Air and Green Jobs Bond Act – TED Parts NN & OO SUPPORT

The proposal would amend the State Finance Law, by establishing a new fund, the Clean Water, Clean Air, and Green Jobs Bond Fund, to hold the bond proceeds from the sale of sale of general obligation bonds in the amount of \$4 billion. This proposal must receive voter approval in November's election.

ESFPA supports provisions of the Bond Act that would provide funding for:

- \$650 million for land acquisition. Priority for ESFPA is working forest conservation easements.
- \$1.1. billion for climate mitigation. ESFPA support mitigation that protects forests and funding for Green Buildings that incorporate the use of mass timber and wood.
- \$650 million for water quality improvements and resilient infrastructure (i.e., sewer and water infrastructure) that will support economic development.

Increased Funding for the Environmental Protection Fund (EPF) – TED Part PP - SUPPORT

The proposal would increase funding for the EPF to \$400 million. ESFPA is supporting the increase in the EPF and funding specifically for:

- \$40 million for Open Space/ Land Conservation. ESFPA priority is working forest conservation easements both state and the Land Trust Easement program funded at \$1.5 million.
- \$1.75 million for Biodiversity/ Landowner Habitat Conservation. Priority for keeping private forests as forest.
- \$17.025 million for Invasive Species. Priority on forest pests and diseases impacting private forests.
- \$2.5 million for Greenhouse Gas Reduction Outside Power Generation. Includes \$500,000 for Regenerate NY.
- \$4.8 million for Climate Adaptation. Includes \$200,000 for the Wood Products development Council. ESFPA will be asking for more for the WPDC.
- \$16.2 million for Climate Smart Communities Projects. Includes \$500,000 for Community Forest Program. ESFPA will advocate for more funding for Community Forests.

ESFPA will also be advocating for much more funding for private forest stewardship projects noting that at present levels the gaps to achieve the ambitious goals and expectations of forest carbon storage and sequestration envisioned in the CLCP and the Climate Scoping Plan are huge. Private family forests account for 75% of all New York's forest land. There needs to be a lot more money if we expect to achieve over 30 million metric tons of forest carbon sequestration by 2050.

Small Business Seed Funding – TED Part CC - SUPPORT

This bill would add a new section 16-GG to the urban development corporation act to establish the Small Business Seed Funding Grant Program. The program would provide funding to micro and small businesses that meet eligibility criteria. Each business would need to show that it is (1) incorporated, licensed or registered with New York state; 2) it has between five thousand and one million dollars in gross receipts or business expenses of at least ten thousand dollars; and 3) it started operating on or after March 1, 2019, and has been operational for at least six months prior to its application; to receive grant funds from Empire State Development. ESFPA supports this proposal to help small businesses who continue to struggle with recovery from the COVID pandemic and now face significant inflationary costs.

Reduce Toxics in Packaging – TED Part SS - OPPOSE

This proposal would restrict the sale, offering for sale, or distribution of packaging with heavy metals, PFAS, and phthalates at levels above 100 parts per million (ppm). This language is similar to the Toxics in Packaging Clearinghouse language which also has many concerns raised by industry and manufacturers. ESFPA members are committed to ensuring the safety of their products, including the safety of chemicals used in their manufacturing processes. ESFPA believes that chemical and product-related legislation and regulations should be protective of health cost-effective and based on the best available science. ESFPA has the following concerns regarding this proposal:

- It is absolutely crucial that the restrictions on PFAS are limited to intentionally added. PFAS is ubiquitous in the environment at trace levels.
- Policy and regulations should be based on the best available science and reflect actual exposure to and risk from chemicals in specific products, not merely whether de minimis or trace levels of a chemical may be present.
- Compliance date is far too soon to allow for businesses to meet the new expectations. It is sooner than the FDA agreement date and a shorter timeline than most NY and other state chemical policies previously passed (usually 2-3 years).
- We believe that states should avoid duplicative regulatory efforts. The state of New York passed a ban on intentionally added PFAS in food packaging in 2020 and the language in the budget ignores the distinction between intentionally added and not intentionally added PFAS. This is important language for businesses and public access alike.

Code Enforcement and Advanced Building Codes – TED Parts VV & EEE - No Position at This Time

Currently, the Department of State (DOS) oversees the administration and enforcement of the Uniform Fire Prevention and Building Code and the Energy Code by local governments. However, the DOS has few non-compliance options to address local government. The Code Enforcement provisions of the proposal would strengthen the State's oversight authority over local governments' administration and enforcement of the Building and Energy Codes by increasing penalties on local government for failure to enforce the Codes, expanding DOS enforcement and authorizing DOS to delegate Code enforcement powers to neighboring jurisdictions.

The Advanced Building Code legislation is proposed to help meet the clean energy and climate policies of the state, this bill would enact building benchmarking, remove current barriers in the Energy Law that could impede the adoption of updates to the State Energy Conservation Construction Code (Energy Code), require zero on-site greenhouse gas emissions for new construction no later than 2027, and increase the state's efficiency standards for appliances and equipment. The advanced building code is

across all building types (residential, commercial, and industrial) and gives broad authority to NYSERDA to establish “energy efficiency standards” for many energy devices within buildings (e.g., heating and cooling, pump motors, compressors, etc.).

Provision amending the Energy Code, which govern new buildings and modifications to existing buildings and require no on-site emissions of greenhouse gases for new construction by 2027, Provisions regarding appliance and equipment efficiency standards would take effect immediately however the amendments regarding appliance and equipment efficiency standards shall take effect 180 days after it shall have become law.

Finally, the legislation would require all buildings, or combination of buildings on a single property, over 25,000 sq. ft. to annually report on total energy and water usage consumed for a property as part of a new Energy Benchmarking a Reporting program. NYSERDA would establish Benchmarking Tools and protocols for measuring a building’s energy and water use, tracking that use over time, comparing performance to similar buildings/properties nationwide, and publicly publishing benchmarking information regarding all covered buildings and properties.

ESFPA has not taken a formal position on this legislative package at this time, but we will develop a position soon.