



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

## 2024 POST SESSION SUMMARY

By John K. Bartow, Jr.

On the morning of June 8th the NYS Assembly adjourned for what may be the final legislative days of 2024, or so we hope. Assembly Speaker Carl Heastie has indicated that the Assembly may return in the fall to address several measures that they just couldn't get to. With elections this fall we suspect they won't return until after the elections, but time will tell. You can see our **2024 Legislative Wrap Up** on page 3.

2024 concludes the two-year legislative cycle and when the legislature convenes in January 2025 we will start anew. We expect a lot of bills that did not pass both houses in this past cycle will be re-introduced. In 2024 we continued to see New York outdo itself in budget spending at \$237 billion, \$4 billion more than the Executive proposal in January and \$9 billion more than last year. The budget this year was very light on policy legislation, which was a good thing, but it was heavy on expenditures which is a bad thing. While forecasted declines in federal funding did materialize, New York borrowed from our "rainy day" funds to make record spending. You can see details of the SFY 2024-25 budget on page 5.

The Legislature also had over 850 bills passed by both houses which will be reviewed and signed, vetoed or have Chapter Amendments by Governor Hochul. To date the Governor has signed 180 bills and vetoed none, so she has a long way to go considering what's before her. We avoided some very significant legislation this year including **Extended Producer Responsibility**, the **New York HEAT Act** and the **TEMP Act**. We did, however, have some bills pass both houses that we will seek a Governor's veto on including the **TREES Act**, **Pesticides in Wetlands** (again) and the **Climate Superfund Act**. Watch for future alerts as we advocate on these and other bills.

On the federal level we have seen some very good U.S. Supreme Court cases (see page 9) that will benefit us in the regulatory arena, but we have also seen a record number of regulations promulgated as the Biden-Harris administration looks at a very tight Presidential election. Congress has been extremely polarized and several important bills such as the Farm Bill have languished. On the other hand spending has been extremely high with the Inflation Reduction Act and several agency initiatives to get dollars out on Main Street.

This summer we will be preparing for our Fall Regional Meetings which will run between September 9th and October 2nd. Keep your eyes open for more details on meeting locations and times. We will also be kicking off our **Log-A-Load for Kids** campaign in August at the Boonville Woodsmens Field Days from August 16th – 18th. Please stop by our booth for some goodies, check on your certifications, and share with us some of your thoughts and concerns.

Finally thank you to all our returning and new ESFPA Members. It is your support that makes what we do happen from Forestry Awareness Day to our work with the legislature and State agencies. Albany is not the most favorable place for wood product manufacturers, landowners, loggers and forest managers. With your support we are able to effectuate changes that make our sector thrive. It is our honor to serve and represent you in Albany and Washington on what matters to you. Enjoy these days of summer and be safe out there. We hope to see you in our travels this summer and fall, but also feel free to call or email us at any time.

*John Bartow*

**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.

**A MESSAGE FROM THE CHAIRPERSON**

*Jennifer DeFrancesco, ESFPA Chairperson of the Board*



My husband and I had the pleasure of taking our teenage daughter to Gettysburg and Valley Forge Battlefields over the Independence Day holiday. Learning about history is a favorite pastime of ours. When you walk those hallowed grounds and read the accounts of the people who were there, it is impossible not to be inspired and grateful for all that they did.

As I began thinking of what to say for this quarter's newsletter, my mind was still on what we saw and learned. Sometimes I feel like we don't reflect enough on where we came from: as a country, as a business, or even as an individual. We tend to be too wrapped up in the present.

For many of us in the industry the present is difficult and has been for a little while now. I wish that I could say the struggles will end soon, but I simply can't do that.

What I can say is that when you are struggling and backed into a corner, banding together as a group will always be more effective than going at it alone. At the June board meeting we approved 5 new members to join ESFPA. That is wonderful, but we need more. We need all of your help to tell everyone that you know in the industry that this group is THE group to join.

On June 7th we ended this year's legislative session. The speaker alluded to the fact that the Assembly might come back in September, but that is unlikely in a major election year. We had some wins, in particular on the EPR bill. A few bad bills made their way through and we will be working for vetoes from the Governor. You can read about that in detail later in this issue. The main point is that we are gearing up for some more fights ahead of us in the Fall. The support

**ESFPA Sustaining Members**



## A MESSAGE FROM THE CHAIRPERSON *(continued from page 2)*

of membership is the only way that we can continue to be successful. Our staff and directors do a great job, but we need more resources to be able to spread our message even further and more effectively.

*"Perseverance and spirit have done wonders in all ages."*  
– George Washington

We didn't come this far just to come this far. There is still plenty of time to get involved. Contact the office and they can let you know all of the ways that you can help our mission. Please help us to finish 2024 strong!

# STATE CORNER

## 2024 LEGISLATIVE WRAP UP

On Friday June 7th the NYS Senate adjourned and the Assembly adjourned on Saturday at 7 a.m. New York state lawmakers ended their session, leaving a number of issues on the table. Final negotiations on several major issues were derailed after Governor Kathy Hochul made a surprise decision to halt planned congestion pricing in Manhattan, less than a month before it was scheduled to begin.

When the Assembly adjourned for the summer, Speaker Heastie indicated that the Assembly could return in September. All Legislators are up for election this fall and many doubt they will return. Time and political pressure will tell.

We had some good defeats (e.g., EPR) but also some bad bills that made it through and one bill on petroleum bulk storage and painting of above ground tanks did not pass both houses. We successfully bottled up EPR, the TEMP Act and Short-term Disability increases. A bad amendment to the Clean Fuel Standard passed the Senate but we succeeded in ensuring it would not pass the Assembly. We do need to work on vetoes for the TREES Act and the Pesticides in Wetlands legislation.

Overall not totally bad results but we have our work cut out for us in the fall. For now, the Legislators are gone and hopefully not to return until 2025!

The following summarizes where we landed when they left town.

**🗳️ Packaging Reduction and Recycling Infrastructure Act (EPR) - OPPOSE Passed Senate** A. 5322-B (Glick)/S. 4246-B (Harckham)

Enacts the "Packaging Reduction and Recycling Infrastructure Act" to require companies selling, offering for sale, or distributing covered packaging materials and products to reduce consumer packaging, improve recycling and recycling infrastructure, including supporting reusable and refill infrastructure, financially support municipal recycling programs, reduce toxins in packaging and require producers of products to bear the onus for end-of-life solutions to product packaging.

ESFPA was pleased that in the amended versions, non-packaging paper has been removed and the bill is a packaging proposal. The Bill passed the Senate on June 7th but never made it to the floor of the Assembly.

**🗳️ TREES Act (Deforestation-free Procurement Act) - OPPOSE Passed Both Houses** A. 9711 (Zebrowski)/S. 8898 (Krueger)

This bill would prevent state agencies from procuring products made from wood and fiber from Tropical forests. ESFPA, AF&PA, SFI Inc. and the Canadian Forest Products Association have worked to convince sponsors on the poor merits of this legislation as it would have included Boreal forests. In reintroducing this bill in 2023, Boreal forests were removed. The bill did, however, include a new section amending the Economic Development Law requiring ESDC to establish a Supply Chain Assistance Transparency Program for small and medium businesses. These supply chain provisions would apply to any "raw material" (not just Tropical woods) and have definitions that are problematic.

On 12/22/23 Governor Hochul Vetoed (Veto Memo 135) this legislation citing burdensome obligations on vendors and complex certification requirements. The sponsors reintroduced this legislation in early April. ESFPA is working with our affiliate organizations at the state and national level to try to prevent this legislation from being enacted. On May 7th these bills advanced as part of the Earth Day packages in both the Assembly and Senate. On May 13th A. 9711 passed the Assembly and on May 16th it passed the Senate. The bills will be sent to the Governor this fall for her consideration. We will advocate for a veto as the Governor considers this legislation.

**👍 Clean Fuel Standard – SUPPORT Passed Senate** S. 1292-A (Parker)

This legislation would establish a Clean Fuel Standard (CFS) to reduce greenhouse gas emissions in the transportation sector. ESFPA has supported this for the heavy-duty transportation and aviation sector consisting of vehicles that presently do not have electrification alternatives. These heavy-duty sources account for as much as one-third of New York's transportation emissions. ESFPA has backed this legislation in how a CFS can

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## 2024 LEGISLATIVE WRAP UP *(continued from page 3)*

achieve emission reductions while supporting our agricultural and forest-based economy, localizing sources of fuel within New York, and helping to use our agricultural and forest landscape as a solution to climate change.

The Clean Fuel Standard passed the Senate on June 7th in an amended version pushed by Senator Parker. These amendments are not good for bio-based feedstocks. We spoke with Assembly sponsor Carrie Woerner and she assures us that this version of the bill would not pass the Assembly. Some advocates felt having this pass in the Senate helps keep the bill alive. We have told advocates that this version is unacceptable to bio-based fuel interests. They assure us that it will change. We still have concerns as to how does the Senate roll this back.

**🗣️ Short-term Disability Benefits – OPPOSE Passed Senate**  
A. 10561 (Bronson)/S. 9840 (Ramos)

This legislation proposes an increase in short-term disability benefits. The Senate brought forth this legislation on June 6th with a last-minute appeal.

ESFPA joined several business associations in opposing this legislation which would result in massive premium increases for the state's businesses. Currently, short-term disability benefits are capped at \$170 per week. This bill would increase benefits each year from 2026 through 2028 until the maximum benefit reaches 67% of the employee's average weekly wage, capped at 67% of the state average weekly wage for weeks 1-12 of disability leave. Using the current state average weekly wage, benefits would rise from \$170 per week to \$1,177.32 per week. This is a 600% increase in benefits over a 4-year period. Fortunately the Assembly did not have time to act on this bill.

**🗣️ NY Home Energy Affordable Transition Act (HEAT Act) – OPPOSE Passed Senate**  
A. 4592-B (Fahy)/S. 2016-B (Krueger)

Amends the Public Service Law to include achievement of "climate justice and emission reduction mandates" of the CLCPA. Establishes a goal of capping residential customer gas, electric and steam costs at six percent of their household income. Includes multiple provisions on continuing natural gas service to residential customers but with a goal of eventual reduction of natural gas. Excludes natural gas from "shall provide" provisions for new natural gas service to be provided "as authorized by" the Public Service Commission (PSC). PSC may order curtailment or discontinuance of natural gas use where "reasonably required" to implement state energy policy. Unclear as to how this will impact existing natural gas in industrial and manufacturing processes. PSC to review utility capital plans to consider feasible alternatives consistent with the CLCPA. New natural gas service into unserved areas generally prohibited after 12/31/24.

This legislation was passed by the Senate on March 19, 2024 and a like version was included in the Governor's Executive Budget as an Article VII bill. The Assembly could not get this bill reported from Committee despite some indication from the Governor that she wanted to see an amended version of the Bill. Advocates for the Bill would not compromise.

**🗣️ Temperature Extreme Mitigation Program Act (TEMP Act) – OPPOSE** – A. 8935-B (Bronson)/S. 1604-E (Ramos)

Provides for the regulation of indoor and outdoor worksites with temperature protection standards and education, training, and reporting requirements to ensure that employers provide safe conditions for their employees. Attributes extreme temperatures to climate change. This legislation includes temperature standards to be followed by employers within the scope to avoid undue harm to employees.

ESFPA had not opined on this legislation as it did not define manufacturing or loggers or foresters in the scope of covered "industries." We did agree to sign-on an industry letter opposing this legislation in that the legislation is not arranged due to already required OSHA requirements and several absurdities included in the legislation. We do believe that our sector is not directly impacted but simple changes could include us. Despite getting amended to an F version in the Senate, this legislation could not get reported from the Committee in either house.

**🗣️ PFAS Monitoring and Disclosure – OPPOSE** A. 3296-A (Kelles)/ S. 227-B (May)

This legislation would require all existing and new water discharge permits to monitor for one year their discharges and to report any level of PFAS documented. This legislation was amended on May 31, 2023, to include general permits for multi-purpose stormwater permits.

ESFPA was surprised by this stormwater provision and filed a MoO on 6/6/23. S. 227-B Passed the Senate in 2023. The bills remain in their respective Environmental Committees as session ended.

**👍 Petroleum Bulk Storage Paint – SUPPORT Passed Senate**  
A. 7818-A (Septimo)/S. 7565-B (Harckham)

This bill would amend Chapter 505 of the Laws of 2021 which amended the Environmental Conservation Law § 17-1016 adding a requirement that all Above Ground Storage Tanks (ASTs) have shells and/or roof painted white, beige, or cream to reduce Air Pollution from Petroleum Bulk Storage (PBS) Facilities. The requirement came into effect on January 1, 2024. Environmental groups and the regulated community have raised several concerns and complaints indicating the impracticality and difficulty in complying with the statute.

On January 8th DEC issued a compliance memorandum looking for amended legislation. The New York State Senate passed this bill. ESFPA worked with the Business Council and others on getting Assemblymember Septimo to introduce a companion bill and did a MoS on April 23rd. Despite some last-minute pushes in the Assembly majority in the final days this bill could not make it to the floor in the end.

**🗣️ Pesticides in Wetlands OPPOSE Passed Both Houses** A. 9712 (Burdick)/S.9379 (Harckham)

This bill would authorize local governments that have adopted freshwater wetland protection laws to prohibit the use of pesticides in wetlands.

*(See "Wrap Up" continued on page 5)*

## 2024 LEGISLATIVE WRAP UP *(continued from page 4)*

On 11/17/23 Governor Hochul Vetoed (Veto 81) this legislation citing 2022 wetland amendments and the preemption authority of DEC on pesticides use and application. ESFPA remains opposed to this legislation. We met with Assemblyman Burdick's staff on May 13th to discuss our concerns. S. 9379 passed the Senate on June 4th and following some intense debate it passed the Assembly on June 5th. There were several Assembly Democrats that joined the Republicans in voting no on this bill but not enough.

**Climate Superfund Bill – OPPOSE Passed Both Houses**  
A. 3351-B (Dinowitz)/S. 2129-B (Krueger)

This bill mandates “compensatory payments” from any

business that extracted or refined fossil fuels whose products were determined by the State to be responsible for 1 billion tons or more of greenhouse gases during the period of 2000 to 2018. Includes entity specific assessments calculated on its share of aggregate emissions. Assess a \$75 billion assessment to be paid over 24 years resulting in \$3 billion/year for New York revenues.

On the last day of session in an unexpected move, the Assembly gave final passage to the Climate Change Adaptation Cost Recovery Program, a.k.a. “Climate Superfund”. If signed by the Governor this legislation will be challenged. Vermont enacted a similarly structured bill in May. ESFPA along with several business associations signed on a letter in opposition.

## SFY 2024-25 ADOPTED BUDGET

The State Fiscal Year 2024-25 Budget is the largest in New York State's history at \$237 billion, \$4 billion more than the Executive proposal in January and \$9 billion more than last year. While revenues as calculated by the Legislature and Governor were a bit more than originally estimated in January, they were not enough to match the budget growth. The only positive thing out of this budget is there were no personal income tax or corporate franchise tax increases.

Climate Advocates were also calling for two major pieces of climate policy in the budget that ultimately did not make it in the final budget bills. The New York Heat Act would be the first step in curtailing and dismantling the natural gas system in New York. It would have discontinued subsidies for natural gas hook ups including the first 100' of free connection, called the “100' rule” and capped utility bills at 6% of household income. The Climate Superfund Bill would have required coal, oil, and natural gas companies pay a share of the cost for green infrastructure projects to remediate environmental harm and remove the burden from taxpayers who did not contribute to the harmful atmospheric emissions. Estimated to generate \$30 billion over 30 years.

The following summarizes the SFY 2024-25 Appropriations and Article VII Bill as they were adopted.

### Appropriations

#### Environmental Protection Fund

Continued **\$400 million** level of funding for the Environmental Protection Fund (EPF) including funding for:

- Wood Products Development Council - \$200,000
- Regenerate NY cost share program \$500,000
- Hemlock Wholly Adelgid \$500,000
- Climate & Applied Forestry Research Initiative (CAFRI) \$1 million. **Senate & Assembly \$1.5 million**
- Community Forests \$500,000
- Forest Management on Farms **Senate \$500,000**
- Easements for Land Trusts \$1.5 million

#### DEC Capital Budget

The Governor and both the Senate and Assembly support **25 million Trees by 2033** and **1.7 million acres of Forest by 2040**. Competitive Grant program for tree planting in support of resilient reforestation and urban forests through municipalities and Non-Governmental Organizations - **\$15 million**.

The Governor and Both the Senate and Assembly support the **Federal Forest Legacy** with a state contribution of **\$1 million**.

#### Agriculture & Markets Capital Budget

The Governor and the Senate and Assembly support **\$5 million for the Cornell Industrial Hemp Program for innovation and biomaterial processing**.

#### Article VII Budget Bills for 2024

#### Renewable Action Through Project Interconnection and Deployment (RAPID) Act S.8308/A.8808, TED Part O **Adopted**

Amends the Executive Law and Public Service Law and moves the Office of Renewable Energy Siting (ORES) from the Department of State to the Public Service Commission. It also adds the siting of major transmission lines (more than 10 miles) to the jurisdiction of ORES where it formally was under Article VII of the Public Service Law. This would effectively pre-empt all local land use and regulatory authority over major transmission facilities and consolidates most all state jurisdiction into ORES. Expedites transmission reviews with a goal of approval in 6 to 12 months.

The Senate modifies by adding language on negative impacts on agricultural lands and to include stand-alone commercial scale battery storage.

The Assembly accepts the Executive Proposal.

#### Affordable Gas Transition Act S.8308/A.8808, TED Part P **Intentionally Omitted**

Amends the Public Service Law to include achievement of

*(See “Budget” continued on page 6)*

## SFY 2024-25 ADOPTED BUDGET *(continued from page 5)*

“climate justice and emission reduction mandates” of the CLCPA. Includes multiple provisions on continuing natural gas service to residential customers but with a goal of eventual reduction of natural gas. Excludes natural gas from “shall provide” provisions for new natural gas service to be provided “as authorized by” the Public Service Commission (PSC). PSC may order curtailment or discontinuance of natural gas use where “reasonably required” to implement state energy policy. Unclear as to how this will impact existing natural gas in industrial and manufacturing processes. PSC to review utility capital plans to consider feasible alternatives consistent with the CLCPA. New natural gas service into unserved areas generally prohibited after 12/31/25.

The Seante rejects and replaces it with the NY Home Energy Affordable Transition Act (NY HEAT Act) (S. 2016-B).

The Assembly intentionally omitted.

### **Environmental Violation Penalties** S. 8308-A TED Part AAA **Not Included**

The Senate advanced language to direct revenue from penalties for environmental violations currently deposited in the general fund to a new environmental enforcement account, and to increase penalties for environmental violations by 50 percent, resulting in increased revenue for the Environmental Protection Fund and for enforcement of environmental laws, similar to S.7086.

### **Require Paid Breaks for Breast Milk Expression in the Workplace** S.8306/A.8806 ELFA Part J **Adopted**

An employer shall provide paid break time for up to twenty minutes and permit an employee to use existing paid break time or mealtime for time in excess of twenty minutes, to allow an employee to express breastmilk for her nursing child each time such employee has reasonable need to express breastmilk for up to three years following childbirth.

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## STATE REFORESTATION PLANNING

As noted in our Budget report on page 5, Governor Hochul has called for the planting of 25 million trees by 2033 and set a goal of reforesting 1.7 million acres of new forest by 2040. Over the past few months DEC's Division of Lands & Forest Climate Forestry & Carbon Unit has been meeting with Working Groups, Supporting Partners and Authors on development of the NYS Reforestation Plan. You can find more about the Plan at the Reforestation Dashboard [NYS Reforestation Plan Dashboard 2024 \(arcgis.com\)](https://arcgis.com). ESFPA is a Supporting Partner and we have participated in most of the team meetings.

**Working Groups** include representatives of state agencies including NYSDEC Division of Lands & Forests, Office of Climate Change, the Dept. of Agriculture and Markets, Dept. of Transportation, Office of Parks, Recreation, and Historic Preservation, NYC Dept. of Environmental Protection, NYC Parks, the Office of Renewable Energy Siting, NYSERDA, and others.

**Supporting Partners** include representatives of organizations at the regional or local level, including soil and water conservation districts, regional planning boards and other municipal land management entities, universities, local preserves, private companies, and other relevant interest groups.

**Authors** for the plan may include supporting partners, working

group members, or other subject experts working on smaller sections of the plan, but most content will be developed by lead authors working on topics related to the following themes:

- **Seed to Sapling Theme: Ed Toth**, Director at the Mid-Atlantic Region Seed Bank (MARSB), **Brigitte Wierzbicki**, Restoration Ecologist at NYS Office of Parks, Recreation, and Historic Preservation (OPRHP), Division of Environmental Stewardship & Planning
- **Planting and Regen Theme: Tony D'Amato**, Professor, Director of Forestry Program and Director of Research Forests at UVM, **Pete Clark**, Postdoctoral Associate, Rubenstein School of Environmental and Natural Resources at UVM
- **Planning Theme: Molly Hassett**, Supervising Forester and Lead of Climate Forestry and Carbon Unit, NYSDEC Division of Lands & Forests, **J.J. Käthe**, Resiliency Planting Coordinator, NYSDEC Division of Lands & Forests
- **Plan Compilation Support: Elysia Nelson**, Reforestation Plan Writing Assistant, PhD Student at SUNY ESF

The theme meetings are concluding as we go to print but you can go back and review recordings of the WebEx meetings. The next phase will be drafting of the report and setting in place the Reforestation Plan. The Plan is due by the end of 2024. ESFPA will notify members when a draft Plan is available.

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## 30 X 30 PLAN

30x30 is a New York State initiative that is a part of greater national and international goals of conserving 30% of lands and waters.

**Conserving Lands & Waters in New York State:** On December 23, 2022, Governor Kathy Hochul signed legislation A.5390B/

S.6191A which sets forth, in the state's Environmental Conservation Law § 49-0113, New York's commitment to support the national goal of conserving 30% of United States lands and waters by 2030

*(See "30 X 30" continued on page 7)*

## 30 X 30 PLAN *(continued from page 6)*

in collaboration with a broad group of partners and stakeholders. The goal stems from the United Nations Convention on Biological Diversity (CBD).

**Conserving Lands and Waters in the United States:** In January 2021, President Biden signed [Executive Order 14008](#) entitled “Tackling the Climate Crisis at Home and Abroad.” The Order pledged to conserve 30% of United States lands and waters by 2030.

**Conserving Lands and Waters Globally:** During the CBD meeting in December 2022, the Kunming-Montreal Global Biodiversity Framework was adopted by 196 countries, including the United States. One of the targets of this framework is to conserve 30% of the world’s land, water, and seas.

New York State Department of Environmental Conservation and the Office of Parks, Recreation, and Historic Preservation are recently released the ***New York State 30x30 Draft Strategies and Methodology*** report, and announced the kickoff of a 60-day

public comment period for review and consideration of and input to the Draft. The final document will serve as a guide for agencies, municipalities, partners, stakeholders, and conservation-minded landowners as we work together to achieve the state’s goal to conserve 30% of New York’s lands and waters by 2030.

You may view the State’s newly developed 30x30 website at **[30x30: Conserving 30% of New York’s Lands and Waters by 2030 - NYSDEC](#)**. The Draft may be found on the website at **[New York State 30x30 - Draft Strategies and Methodology \(ny.gov\)](#)**.

Public comment will be received until August 30th. During the public comment period the agencies will host two virtual public meetings to gather direct feedback and will seek written comment. The public meetings will be held on July 25, 2024, 1-3 pm, and on August 15, 2024, 6-8 pm. See the 30x30 webpage for registration information and how to submit comments. ESFPA will be drafting comments on the draft Plan.

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## DEC NOW ACCEPTING PUBLIC COMMENTS ON THREATENED AND ENDANGERED SPECIES REGULATIONS

In early May the New York State Department of Environmental Conservation (DEC) announced the start of a public comment period for threatened and endangered species draft regulations. While no specific substantial changes to existing threatened and endangered species protections are included in the rulemaking, DEC was accepting comments until July 16, 2024. ESFPA did submit comments.

The proposed rulemaking reinstates regulatory language that was vacated as a result of a court ruling. The proposed regulations re-issue the entirety of the endangered and threatened species regulations (6 NYCRR Part 185) as they existed prior to the 2022 court decision and provide for a public comment period and public hearing to restore the regulations to their previous form.

There are no substantial changes to the regulations being made through this effort, beyond updating the dates to the most recent publication of federal regulations that are referenced within the regulations.

Following this filing, DEC will be proposing substantive amendments to the endangered species regulations. Anticipated changes include an update to the species listed and changes of species within categories of Endangered, Threatened and Species of Greatest Conservation Concern. We also expect to see changes that will encourage more private landowner engagement to recovering species.

ESFPA will be addressing more on the endangered species regulations in our upcoming E-news articles.

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## PM STATIONARY COMBUSTION RULE

Effective February 25, 2025, the New York State Department of Environmental Conservation (NYSDEC) will start enforcing to the particulate matter (PM) emissions limits in Title 6, Part 227-1 of the New York Codes, Rules, and Regulations (6 NYCRR 227-1) for stationary combustion installations. These regulations adopted in 2020 gave a four-year enforcement reprieve to wood boiler systems.

The regulations are to reduce PM emissions released into the atmosphere, and they will trigger significant additional compliance costs for existing and proposed stationary combustion installations. For example, existing biomass boilers equipped with cyclone technology for PM control may have to install more effective PM control equipment such as an Electrostatic Precipitator (ESP) to meet the proposed emissions limit of 0.10 lb/

MMBtu. ESP capital costs could range from \$150,000 to \$500,000 or more depending on boiler size for the institutional and commercial facilities in New York. In addition, facilities will incur the cost of performance testing which could range from \$5,000 to \$10,000 for a test for one stationary combustion installation.

### KEY CHANGES TO THE RULE

**1. Reduced PM Emissions Limit.** The PM limits in the prior version of the rule varied by the heat input of the stationary combustion installation. The new rule revised these heat input-based emissions limits downward to 0.10 lb/MMBtu of heat input for stationary solid fuel (biomass) combustion installations with a maximum heat input capacity equal to or 1 MMBtu/hr.

*(See “Stationary Combustion” continued on page 8)*

## PM STATIONARY COMBUSTION RULE *(continued from page 7)*

**2. There is an Exemption.** The rule does not apply if a more stringent Federal emissions limit applies.

**3. Performance Testing.** Facilities must perform an initial compliance test to measure filterable PM via U.S. EPA Test Method 5 within six months of commencing operation of a new affected stationary combustion installation and within four years of the promulgation date of the rule change (February 25, 2021) for an existing affected stationary combustion installation.

**5. Monitor Visible Emissions.** Facilities must demonstrate compliance with opacity standards using a Continuous Opacity Monitoring System (COMS), U.S. EPA Test Method 9 visible emissions observations, or “testing with any other credible evidence.”

**6. Annual Tune-Up.** All Facilities must perform a tune-up annually per manufacturer’s recommended procedure or per an approved specialist on their affected stationary combustion installations.

### WHAT SHOULD I DO?

If you haven’t yet you should start now. Here are a few things you can do:

1. Determine if your stationary combustion installation is exempt from the rule.

2. If your existing or planned stationary combustion installation is not exempt, evaluate whether it will meet the PM emissions limit without additional pollution control such as an ESP.

3. If your existing or planned stationary combustion installation will not meet the emissions limit without a pollution control device, obtain quotes from pollution control equipment vendors and begin evaluating the cost and technical feasibility of installing pollution control equipment. We are hearing these units are 6 months or longer out on installation.

4. Obtain vendor quotes for PM emissions testing, emissions monitoring, and tune-ups.

**5. Reach out to ESFPA as we have been asked to consider a group grant application to help in the cost of these upgrades. We need to hear from you ASAP as the grant application will be solicited in September.**

If you have any questions on this rule requirement please do not hesitate to contact us at 518-573-1441 or by email at [jbartow@esfpa.org](mailto:jbartow@esfpa.org).

## FEDERAL CORNER

### AGRICULTURE COMMITTEES OFFER FRAMEWORKS FOR FARM BILL

Both the House and Senate Agriculture Committees have offered frameworks for what they expect to draft in the federal Farm Bill. Already a year late in re-authorization, it still does not remain clear that we can get a Farm Bill done in 2024. While the House and Senate will be on leave for much of the summer and campaigns are on high alert given a lot of election uncertainty for November, staff will still be working on bringing the two frameworks together in hopes of getting a bill done.

ESFPA has been working with our national affiliates on several priorities that are embodied in one or both of these frameworks. Included among our priorities are:

**Sustainable Forest Management:** Effective forest management practices are essential for the health of our ecosystems, wildlife, recreation, the economy, and mitigating the impacts of climate change. We support provisions that promote sustainable forestry, enhance forest health, bolster national reforestation efforts, and provide incentives for private landowners to adopt best management practices. We also support increased funding for the Forest Inventory Analysis program at USDA for both expanded work on climate and forests and more detailed forest plot analysis.

**Conservation Programs:** Funding for conservation programs such as CRP, EQIP, and RCPP is crucial, as is crafting policy that

enables these programs to maximize the benefits forests provide to society. These programs help protect vital habitats, improve water quality, and sustain wildlife populations, benefiting both the environment and the public.

**Support for Growing and Evolving Markets:** We advocate for increasing research support for growing and evolving forest products and environmental market industries and financing tools that enable access to emerging markets, such as the Rural Forest Markets Act and the expansion of the Wood Innovation Grant Program.

**Exports**—Double funding for USDA export promotion. Fortunately for industry, the House version of the bill and the Senate framework include this key provision, which lawmakers must push across the finish line!

**Biomass**—Legally binding biomass carbon neutrality language as part of the Farm Bill reauthorization effort.

**Workforce**—The “Jobs in the Woods Act,” sponsored by Reps. Chavez-Deremer (R-OR) and Gluesenkamp-Perez (D-WA) on the House side and Sens. King (I-ME) and Risch (R-ID) in the Senate. This bipartisan bill (H.R. 5344, S. 3063) provides education grants ranging in size from \$500,000 to \$2 million to promote jobs in the understaffed timber industry and U.S. Forest Service.



## NEW INFO ON TURTLES AND THE LATEST ON BATS

We had an inquiry from a member on the potential listing of Wood Turtles on the Federal Endangered Species List as “endangered”. This would result in an automatic listing on the NY list as well. We inquired with Dan Rosenblatt of NY DEC (Wildlife Diversity Section Head) on this potential and below is Dan’s response. Dan also updated us on the latest with bats.

*In NY we classify the wood turtle as a species of special concern. It may be considered for uplisting next time DEC has authority to revise the reptiles in the list (probably in 2025), but there is some positive momentum that makes this less likely. There has been a petition asking USFWS to list the wood turtle and they are considering it, and they have said they will provide a decision this year. That being said, there have been a number of recent efforts that have begun proactive turtle restoration work and cooperative efforts such as the one initiated by the NAFO and USF&WS that demonstrate progress in raising awareness with landowners to voluntarily protect the species, so I am not convinced listing is likely. Of the NE turtles proposed as candidates, I think Blanding’s turtle is the most likely to be listed federally, and we have had them listed for decades without any serious conflict with forest management. Wood turtles (despite their*

*name) are also predominantly stream species, with forest lands more than 1,000 ft away from inhabited streams unlikely to ever be visited by the species. And, like with the bats, sustainable forestry helps in the long run. Canopy openings help provide the sun-exposed soil they need for egg laying/nesting. Fingers crossed on this one!*

*In other news, the USDA Forest Service has just had a bat conservation plan for their management activities in the eastern US approved by USFWS. In the plan, the buffers used for forest management look very similar to the ones recommended in the former 4(d) rule. That makes me hopefully optimistic that the revised NLEB management guidance coming from FWS later this year will look something more like what they approved for Forest Service use and not be a significant departure from what we have already been working under.*

Note that ESFPA also partnered on the NAFO/USF&WS study thanks in large measure to Board member Sean Ross. The work on bats is encouraging and one the Forest Sector has been very active in to try and ensure the 4d rule guidance continues. But we can’t give up the science and pressure now. Both of these demonstrate that persistence on our part helps!

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## U.S. SUPREME COURT DECISIONS

The U.S. Supreme Court is ending its 2023-24 term with many decisions coming out over the past several weeks. Recently, there were two decisions which affect our sector – the **Good Neighbor Rule** and the **Chevron Doctrine**.

In a 5-4 decision, the Supreme Court blocked the implementation of the Environmental Protection Agencies **Good Neighbor Rule**. The Good Neighbor Rule proposed new limits on smog-forming emissions produced from generating energy. This rule would significantly reduce markets for forest-based biomass in several states if kept in place. Justice Neil Gorsuch wrote for the majority, stating that “EPA’s federal plan “likely runs afoul” of statutory requirements that it properly explains the rationale for its decisions in order to avoid being “arbitrary” or “capricious.” The EPA said it was disappointed with the ruling but looked forward to defending the plan as the matter is further litigated. The ruling has been condemned and hailed from both sides, but it demonstrates the willingness on the part of this Court to disagree with the Agency’s environmental rulemaking.

The U.S. Supreme Court also overturned the so-called “**Chevron Doctrine**” established in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.* (1984). The Chevron Doctrine gave agencies broad deference to “reasonably” interpret ambiguous legislation.

The decision in *Loper Bright v. Raimondo* and *Relentless v. Commerce* (2024) was authored by Chief Justice Roberts in a 6-3 opinion split

along ideological lines. In his majority opinion, the Chief Justice held the following:

“Chevron is overruled. Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority, as the [Administrative Procedure Act] (APA) requires. Careful attention to the judgment of the Executive Branch may help inform that inquiry. And when a particular statute delegates authority to an agency consistent with constitutional limits, courts must respect the delegation, while ensuring that the agency acts within it. **But courts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous.**”

While courts have applied Chevron deference for four decades, they have applied it less frequently in recent years. Consequently, many agencies have attempted to move away from relying on Chevron as they draft regulations. Overturning Chevron will likely not immediately impact existing regulations, administrative law, or the administrative state. However, it may become the basis for legal challenges to agency interpretations of law and could more firmly establish Congress’s role as the primary law and policymaker, requiring administrative action more closely aligned with Congressional intent.

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## EU DEFORESTATION RULES

On May 30, USDA Secretary Tom Vilsack, Commerce Secretary Gina Raimondo and U.S. Trade Representative Katherine Tai sent a letter to the E.U. Commission requesting that they delay the now final deforestation rules specifically citing timber in their communication. The new rules, if imposed as currently planned, will, among other things, require geo-location of fiber included in

the manufacture of wood products, imposing trade restrictions on exports of hardwoods. The Administration’s action echoes messages conveyed by the industry to the USTR in a meeting in late November. ESFPA will keep you posted on developments related to the Administration’s action and how this relates to recently enacted TREES Act by the NYS Legislature (see page 4).

## WHITE HOUSE VOLUNTARY CARBON MARKET GUIDELINES

Strong forest product markets are the economic force behind our private working forests and the many public benefits they provide, including climate mitigation. At the same time, new carbon mitigation opportunities are creating options for private working forest owners to provide climate benefits from their lands. Among these, voluntary carbon markets (VCM) are a potential opportunity to grow natural climate solutions while providing important income potential for forest landowners.

While private forest owners welcome the opportunity to monetize the environmental benefits of their forests, voluntary carbon markets must have integrity to scale to a level that will drive real impact. Over the past several years VCMs have come under considerable criticism including an accusation of the ultimate “greenwashing”.

The White House recently released a “Voluntary Carbon Markets Joint Policy Statement and Principles” from the Department of Agriculture, Department of the Treasury and Department of Energy. The purpose of which is to address challenges that have emerged, promote robust standards for carbon credit (“credit”) supply and demand, improve market functioning, ensure fair and equitable treatment of all participants, and instill needed market confidence. This is not regulation, and it is not clear if this will have an impact on the integrity of VCMs it is a start for what is still a small but potentially large growth in the coming years and channel a significant amount of private capital to support the energy transition and combat climate change. The guidelines can be found at [Voluntary Carbon Markets Joint Policy Statement and Principles \(whitehouse.gov\)](https://www.whitehouse.gov/voluntary-carbon-markets-joint-policy-statement-and-principles).

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# ESFPA NEWS

## ESFPA MEMBER SPOTLIGHT: VESTIGE

At Vestige, we are proud to partner with the Empire State Forest Products Association and offer a reduced rate on our comprehensive Camera & GPS solution. We work exclusively with the Logging/Forestry industry and believe in providing better visibility to improve safety and control, enhance performance, increase productivity, and improve peace of mind that your trucks and drivers are protected.

We have a modern and flexible SaaS Telematics platform that delivers an ROI by reducing operational costs, increasing loads per week, improving safety with maximum visibility, and reducing insurance premiums by reducing fraudulent claims.

We are unique in that we can manage up to 8 cameras per truck, offering side and rear visibility down the side of the trailer protecting our customers from liability. VestigeView is your defense against the hazards your drivers face every day with our customizable camera system and comprehensive GPS software. With Vestige, you can access live video feeds or view historical events anywhere, anytime from any truck because the system is constantly recording from ignition on until 1 hour after ignition off. Our trainers are here to customize and train you on the solution

so that your operation is running at maximum capacity, while protecting your trucks on the road. With Vestige, you have one point of contact and an in-house support staff centrally located at the home office to resolve issues immediately should they arise.

### Features:

Event-Based Video, automatically downloading events based off driver behavior, which in turn generate a safety scores for each truck/driver.

Live Steaming functions of the cameras to see trucks in real time.

All cameras includes GPS

Professional hard-wired Installation is also included for day, night or weekend installs at your location.

Please reach out to Derek Breedlove at 704-770-8392 or [derek.breedlove@vestigeview.com](mailto:derek.breedlove@vestigeview.com) to schedule a live demo or speak more about the Vestige Multi-Camera solution that so many loggers are already utilizing.




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## NY LOG-A-LOAD FOR KIDS

THE KIDS OF OUR COMMUNITIES NEED OUR HELP - OUR KIDS NEED YOUR DONATIONS

For years we’ve had the privilege of watching an empty booth fill up with donations of love and caring on Friday mornings at the Woodsmen’s Field Days. It’s sweeter than Christmas and some of the stories from families who’ve needed a CMN Hospital will lump your throat and take your breath away. Join us and share in this joy.

Please write a check, reach deep for that ‘emergency’ wad of cash, make, buy or create something to donate to our raffles or firewood auctions. Share something of value to help kids.

Whether you’re a donor, volunteer, or advocate, we appreciate you helping us make miracles for children and their families throughout New York State. Over the years, we have come to

know many of you, either professionally or as familiar faces donating and buying raffle tickets year after year. You drive Log-A-Load’s success—none of this would be possible without your support.

New York State Log-A-Load for Kids is part of a nationwide program to support Children’s Miracle Network Hospitals. Serving nine hospitals across New York State, we have witnessed first-hand how the money we raise has changed the lives of children and their families.

To make a donation call Dorian Johnson at (518) 463-1297 or Venmo @ESFF-LogALoad.

Thank you for your support and generosity!

# CLIMATE CORNER

## NEW YORK CAP & INVEST PROGRAM

Over the past eleven months ESFPA has been engaged in pre-proposal sessions and several comment periods involving the development of New York's Cap & Invest (NYCI) rulemaking. As we go to print there is still no draft rule promulgated but we expect a draft rule to emerge at any time.

According to DEC and NYSERDA, "An economywide Cap-and-Invest Program will establish a declining cap on greenhouse gas emissions, limit potential costs to New Yorkers, invest proceeds in programs that drive emission reductions in an equitable manner, and maintain the competitiveness of New York businesses and industries."

DEC and NYSERDA are designing a program that sets an annual cap on the amount of greenhouse gas pollution that is permitted to be emitted in New York. The declining cap ensures annual emissions are reduced, setting the state on a trajectory to meet our greenhouse gas emission reduction requirements of 40% by 2030, and at least 85% from 1990 levels by 2050, as mandated by the Climate Act.

It's anticipated that large-scale greenhouse gas emissions sources and distributors of heating and transportation fuels will

be required to purchase or obtain allowances for the emissions associated with their activities. By applying a price to the amount of pollution, the Cap-and-Invest Program incentivizes consumers, businesses, and other entities to transition to lower-carbon alternatives.

Proceeds from the Cap-and-Invest auctions will be invested to bolster carbon reductions and help ensure the Program is affordable for all New Yorkers and delivers benefits to disadvantaged communities. Proceeds will support critical investments in climate mitigation, energy efficiency, clean transportation, and other projects, in addition to funding an annual Consumer Climate Action Account that will be distributed to New Yorkers to mitigate any potential consumer costs associated with the Program.

ESFPA together with other trade association and stakeholders have raised serious questions about NYCI and we are anxious to see how our questions and comments have been integrated into the proposed rule. We will continue to monitor the development of the rule and will engage our members as the draft is released. If you would like a copy of our comments to date you can find them on the ESFPA website or call us and we can send you them.

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## DEC RELEASES FINAL POLICY FOR EVALUATING AND AVERTING DISPROPORTIONATE IMPACTS OF PERMITTING ACTIONS ON DISADVANTAGED COMMUNITIES

In May, New York State Department of Environmental Conservation (DEC) Interim Commissioner Sean Mahar announced the finalization of a new DEC policy, Division of Environmental Permits Policy "Permitting and Disadvantaged Communities (DEP-24-1), to implement environmental justice provisions of the historic Climate Leadership and Community Protection Act (Climate Act). The policy, previously released as draft [DEP-23-1](#), provides guidance in DEC's permitting processes for considering impacts and existing burdens on New York's most vulnerable communities.

"New York continues to lead the nation on environmental justice by implementing key Climate Act policies to directly address and prevent pollution burdens on disadvantaged communities that have borne the brunt of harmful climate impacts, including air pollution and greenhouse gas emissions," Interim Commissioner Mahar said. "Under the leadership of Governor Hochul, New York State continues to advance critical climate justice policies that help create a cleaner, greener, and more equitable state for all New Yorkers and support communities historically impacted by environmental pollution and climate change."

The new policy provides guidance for implementation of Section 7(3) of the Climate Act, which requires all state agencies, offices, authorities, and divisions to avert disproportionate burdens on disadvantaged communities and prioritize

reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities when issuing permits, licenses, and other administrative approvals and decisions. DEP-24-1 describes the analyses required by DEC staff pursuant to the requirements of Section 7(3) and the procedures DEC staff will follow when reviewing those analyses to ensure compliance with Climate Act requirements.

In March 2023, New York's Climate Justice Working Group (CJWG)—which includes representatives from environmental justice groups from across the state and representatives of several State agencies—finalized criteria to identify disadvantaged communities. A list of disadvantaged communities, along with maps, is available on the Climate Act website. The criteria and methods for identifying disadvantaged communities will be reviewed annually by the CJWG to ensure the State is accurately targeting emissions reductions and investments.

DEP-24-1 is among the most recent administrative steps underway to implement the Climate Act, including finalization of [Commissioner's Policy 49 \(CP-49\)](#), "[Climate Change and DEC Action](#)," and [Division of Air Resources Policy 21 \(DAR-21\)](#), "[CLCPA and Air Permit Applications](#)." Additional steps to implement the Climate Act include adopting limits on the statewide emissions of greenhouse gases of 40 percent by 2030 and 85 percent by 2050, completing the Value of Carbon guidance and updates, and issuing the annual greenhouse gas inventory, among other measures.



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## ESFPA FALL 2024 EVENTS

Fall 2024 will offer numerous opportunities for networking at our upcoming events. This year's ESFPA/Adirondack Research Consortium (ARC) Fall Forestry Roundtable will be held at SUNY Adirondack on Wednesday, October 30th. Additionally, ESFPA's 2024 Fall Regional Meetings will occur between September 9th and October 3rd. We plan to host 4-5 meetings across the state, and we hope you will join us at a location near you. This year, we are excited to introduce some new venues and feature some excellent speakers. More information will be released closer to the event dates; please keep an eye on upcoming ESFPA newsletters, alerts, and social media for updates.

**AUGUST 16, 17 & 18, 2024**  
**BOONVILLE-ONEIDA COUNTY FAIRGROUNDS**

Gates Open Daily at 8 AM  
 Rain or Shine  
 Plenty of FREE Parking Available  
 Community-Wide Events  
 Sorry ... No Pets Allowed

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