



## Hardwood Federation January 2022 Newsletter

### Message From the Executive Director:

As federal lawmakers convene for the second session of the 117<sup>th</sup> Congress, the Hardwood Federation is aligning its resources to meet the major public policy challenges facing the industry. In November, the Federation distributed a survey asking industry leaders to assign a rating of one to five for major public policy issues impacting the industry. Within the context of the scaling system, “one” scored as the least important and “five” scored the most. We received 144 responses when the survey closed in December.

The “top five” issues according to the 2022 survey are as follows:

- Federal Forest Management
- Transportation and Infrastructure
- Trade
- Tax Reform
- Carbon Sequestration of Forest Products

It’s interesting to note that although respondents ranked “carbon sequestration of forest products” as number five, the topic has emerged as the most talked about issue during conversations among industry leaders in early 2022.

Respondents also identified the following five policy areas as being highly impactful:

Innovative Wood Products  
Funding Government Programs that Enhance Exports  
Workforce Development  
Biomass  
Immigration Reform

When HF shared the survey results with Board members during a meeting on January 11, participants noted that the top three issues have remained virtually the same for the last two years. Also of note is that tax reform has climbed from number seven in 2021 to number four in 2022, reflecting the urgency to preserve key small business provisions within the Tax Cuts and Jobs Act (TCJA). Repeal or reduction of these tax breaks were in the crosshairs during last year's debate surrounding the "Build Back Better" plan and how to finance it which no doubt contributed to increased interest and concern.

Stay tuned for regular communications, including grassroots calls to action, related to specific bills and federal regulations addressing the industry's top priorities. Moving forward, for example, the Federation will be advocating for bills that alleviate transportation bottlenecks, such as the "Ocean Shipping Reform Act," and lay the groundwork for provisions within the upcoming farm bill for beneficial carbon sequestration accounting as it relates to wood products.

### **Build Back Better**

Last week, President Biden acknowledged that his signature \$1.75 trillion tax and social spending plan may need to be broken up in order to move forward in the U.S. Senate. It appears now that there is some momentum toward negotiating a package focused on the climate change/greenhouse gas mitigation measures included in the House passed Build Back Better Act. Recall that the House bill includes a number of forestry provisions and considerable funding for deploying innovative wood products in construction projects. The bill also includes a number of renewable energy tax credits, a few of which incentivize biomass energy.

The pivot to a climate focused bill is based on repeated comments that Senator Joe Manchin (D-WV) has made in recent weeks suggesting that he would support a narrower bill built around climate change provisions. We expect to see details in the coming days. On Tuesday, Senator Ron Wyden (D-OR)—Chairman of the Senate Finance Committee—announced that Senate Democrats would soon unveil a compromise measure built around green energy tax credits and a number of health care and prescription drug pricing provisions.

If this smaller package materializes, the Hardwood Federation will be closely tracking the revenue raisers identified to pay for these provisions and urge lawmakers to steer away from funding these provisions through increased taxes on small and medium sized businesses.

### **Farm Bill**

It is difficult to fathom that we are once again on the front end of a Farm Bill reauthorization process. Recall that the last one was enacted in 2018 and these comprehensive bills have a 5 year expiration date. What our contacts on Capitol Hill are telling us is that the process of writing another Farm Bill will commence in February with public hearings to take testimony on issues that need to be addressed in this next round.

Although this comprehensive measure is the bedrock of our country's agriculture and nutrition programs, there is always a robust forestry title as well as considerable funding for rural development programs, biomass energy provisions and trade. What we know out of the gate is that authorizing and funding our two key trade promotion platforms—the Market Access (MAP) and Foreign Market Development (FMD) programs—will be a key area of our focus. These two highly effective programs have a proven track record of opening up and sustaining markets across the globe for U.S. produced hardwood products. One positive outcome from the 2018 Farm Bill rewrite was that MAP and FMD were consolidated for purposes of funding under a new umbrella program known as the Agricultural Trade Promotion and Facilitation Program (ATPFP). This was significant as the consolidation also provided for mandatory funding of \$255 million over the life of the current Farm Bill to be apportioned among the programs under ATPFP. Before 2018, the Hardwood Federation and our allies that support these trade promotion programs were forced to work the Congressional appropriations process each year to advocate for MAP and FMD funding. And each year there were a select few Members of Congress looking to defund these programs or eliminate them entirely. Now that they are seeded with mandatory money and consolidated under this larger umbrella program, these funding concerns are generally not an issue. The HF team will be advocating for increased mandatory funding for these two programs if that seems politically feasible. If not, we will be looking toward reauthorizing ATPFP with mandatory money for our two priority programs.

In other issue areas, we expect to see a strong push for forestry provisions that were included in the House-passed Build Back Better legislation if that bill or climate-focused version of it does not move in the Senate. As part of this discussion, forest landowners will be promoting provisions that help them participate in voluntary carbon markets. The HF team has been vocal in our insistence that forest carbon market policy must recognize and incentivize not only growing trees, but the critical role that traditional forest products markets play in storing carbon long term. We will continue our advocacy on this issue as negotiations continue in 2022 and beyond.

The attractive aspect of the Farm Bill is that it is “must pass” legislation and is typically one of the few areas where Democrats and Republicans work together in a collegial fashion to finalize a bill. The skirmishes usually percolate from long standing regional disputes like Northeastern dairy producers versus the Midwest and Western dairy operations or infighting among support structures for the various row crop producers. But ultimately, a Farm Bill always gets done and as such it is an effective vehicle for moving policy priorities.

To that end, the Hardwood Federation team—working with our member companies and associations—is discussing other specific policy provisions that we might advocate for as this next Farm Bill round kicks off. If you have ideas or suggestions, please share those with us.

### **FY 2022 Appropriations Bills Include Carbon Neutrality, Mass Timber Provisions**

The Hardwood Federation (HF) advocates for a variety of favorable measures within annual federal appropriations or spending legislation. In recent years, these have included provisions

embracing the concept of “carbon neutrality” of biomass energy and programs that promote mass timber.

The Fiscal Year 2022 appropriations cycle remains a work in progress as the federal government is operating under a Continuing Resolution (CR) to fund operations at 2021 levels through February 18. Last week, we picked up some good news regarding the HF-supported biomass carbon neutrality provision that has ridden on every appropriations bill since 2017. Senate Appropriations Committee Ranking Member Richard Shelby (R-AL) has signaled that, in order for negotiations on a Fiscal Year (FY) 2022 appropriations package to proceed, the legacy policy riders (including the biomass carbon neutrality provision) must remain unaltered and intact. Recall that both the House and Senate FY 2022 Interior appropriations bills both change the current biomass rider by substituting “carbon benefits” in place of the current “carbon neutral” reference in existing law. HF has been advocating for preserving the existing biomass carbon neutrality directive’s language as it more precisely characterizes the forest biomass carbon cycle, while “carbon benefits” is more nebulous and not defined. Senator Shelby’s criticism of the FY 2022 appropriations bills stems in part from the fact that they were crafted essentially without Republican input.

There is building pressure to forge a deal on an FY 2022 funding package as increased appropriations dollars are necessary to fund a number of provisions that were enacted as part of the infrastructure deal signed by the President last year. Implementing the bipartisan infrastructure deal is a priority for both parties and the threat of insufficient funding to dedicate toward its implementation is expected to bring House and Senate negotiators to the table. In addition to all of these variables, both the Senate Appropriations Committee Chairman Pat Leahy (D-VT) and Ranking Member Richard Shelby (R-AL) have announced they will not seek reelection in 2022 and so there are legacy issues in play—meaning both have a vested interest in forging a deal instead of ending their appropriations careers with a yearlong CR.

Fortunately, on the mass timber front the industry has successfully made its case before Congress and closed the deal in the form of enacted legislation. On December 15, Congress approved the “National Defense Authorization Act” (NDAA) (H.R. 4350/ S. 1605), a \$768 billion defense policy bill. The President signed the bill into law on December 27.

The NDAA includes a provision authorizing a pilot program to evaluate the use of more mass timber in military construction. Specifically, the bill states that “each ... military department shall conduct a pilot program” to analyze the impact that “the use of mass timber as the primary construction material in military construction may have on the environmental sustainability, infrastructure resilience, cost effectiveness, and timeliness of military” projects. HF will keep you posted on developments related to outstanding spending legislation to fund the federal government through FY 2022.

### **Supreme Court Strikes COVID Vaccine Mandates for Private Employers**

In a dramatic reversal for the Biden Administration, on January 13 the Supreme Court vacated the Occupational Safety and Health Administration's (OSHA's) Emergency Temporary Standard (ETS). This far-reaching rule required companies employing 100 or more workers to institute mandatory COVID vaccinations or otherwise require their employees to submit to regular testing. In the wake of the Supreme Court decision, the Biden Administration announced on January 25 that it would withdraw the ETS altogether, effective January 26.

In its majority opinion, the high court stated that even though "Congress has indisputably given OSHA the power to regulate occupational dangers, it has not given that agency the power to regulate public health more broadly." The majority further stated that "requiring the vaccination of 84 million Americans, selected simply because they work for employers with more than 100 employees, certainly falls in the latter category."

The high court's decision ended several weeks of uncertainty for the business community that characterized the final weeks of 2021. In early November, the Biden Administration unveiled its ETS and mandated full compliance by January 4. As expected, in response to legal challenges, a federal court issued an injunction prohibiting enforcement of the mandate until further judicial review. On December 17, however, a federal appeals court overruled the "stay," creating a pathway to the Supreme Court for its final decision.

As the White House continues to face roadblocks with respect to implementation of its top legislative priorities, the Federation expects the Administration to continue to use substantial federal regulatory authority to move its agenda forward. This will create challenges and opportunities to work with the Administration on common policy goals.

### **Transportation—Truck Weights**

Earlier this month, a bipartisan letter signed by 14 House members was sent to the President urging the Administration to increase the gross vehicle weight limit on federal interstates. The letter references the fact that California Governor Gavin Newsom recently announced that California will issue temporary permits to increase weight limits for trucks to 88,000-pounds, up from the federally set 80,000pound weight limit, for intermodal shipping containers. In addition Governor Mike DeWine reinstated an executive order that allows trucks in Ohio to carry up to 90,000pounds. The letter goes on to emphasize that "Allowing for additional capacity will immediately provide relief from the current supply chain crisis. These actions will prevent trucks from being sent out one quarter empty, can significantly ease the current supply chain burdens, and again show that increasing gross vehicle weight limits is a safe, environmentally-friendly, and efficient solution."

Truck weight reform has historically faced tough sledding in Congress. Highway safety advocates, many of whom are funded by the Class 1 railroads, continue to oppose any lifting of the arbitrary 80,000 pound weight limit on federal interstate highways. This despite the fact that rigs exceeding 80,000 pounds are travelling on state roads all day every day.

The HF team will continue to monitor this situation closely and will be joining allied associations in the supply chain on common sense truck weight proposals that may surface in the coming weeks and months to help alleviate supply challenges being experienced across the economy.

## **HAPPENING IN THE HARDWOOD WORLD**

**Hardwood Federation Back on the Road:** The Hardwood Federation team is back in action at industry events. In January, Dana participated in the Decorative Hardwood Association Board meeting in Sterling, VA and presented at the Lake States Lumber Association Conference in Green Bay, WI. If you or your association would like to hear from the Federation, either in person or virtually, please let us know!