



May 2022

**Memorandum in Opposition - Coalition**  
**S.5921-A (Krueger)/A.6872-A Zebrowski)**  
**“New York Deforestation-Free Procurement Act”**

We are writing to express our opposition to [S.5921-A/A.6872-A](#) which establishes the New York Deforestation-Free Procurement Act.

**“Forest-risk Commodities” Sweeps in Many Industries and Employees in New York and Will Unnecessarily Increase Costs for the State**

Any companies providing “Forest-risk Commodities” to New York for procurement contracts must – regardless of their source – comply with the bill’s onerous certification process. A “forest-risk commodity” is defined as any commodity and its derived products, including agricultural and non-agricultural commodities from land where tropical or boreal deforestation or intact forest degradation has or may occur. Forest-risk commodities include soy, beef, coffee, wood pulp, paper, logs, lumber, palm oil, and any additional commodities defined by the commissioner of the office of general services.

Because of the breadth of the definition of “Forest-risk Commodities,” this means that broad swaths of procurement contracts, including those for small and mid-sized businesses (starting at just \$100 million in annual sales), will be subject to these new requirements and likely shut

out of the opportunity to secure a state contract. These requirements will disincentivize participation in the procurement process for many suppliers and increase costs for the state for the entire range of “forest-risk commodities” and all products that contain them in any amounts.

#### **S.5921-A/A.6872-A’s Certification Requirements Are Not Feasible**

S.5921-A/A.6872-A’s obligation to certify the source of “forest risk commodities” may not be feasible given the length and complexity of supply chains. This is particularly true for smaller businesses, who will likely not buy their materials directly, and therefore will have to trace the source of all “Forest risk commodities” further than a large supplier. In other words, this creates a potentially unreachable threshold for vendors who are unable to trace the complete origins of a product or component.

Similar legislation introduced in California in 2021 was vetoed by Governor Newsom, saying that the bill’s “extensive requirements would create a significant burden on California businesses – particularly small businesses – that are looking to participate in state contracts.” Not only is this bill continuing with those significant burdens but the latest reprint have added further requirements and lowered the threshold for size of businesses impacted.

#### **S.5921-A/A.6872-A Will Create Impossible Reporting Obligations for Recycled Products**

As drafted, the bill requires that all “forest risk commodities” prove that they do not contribute to tropical or boreal deforestation. However, it only exempts products made from entirely recovered fiber products. This means any supplier who provides materials as part of their procurement contract that are partially recycled content would need to prove that such materials were not sourced from a tropical or boreal deforestation areas but they will be unable to do so.

Businesses often cannot trace the specific origin of the recycled material past the recycling center, and certainly cannot identify the source of individual fibers in paper and other recycled goods. Because not every product is suited or economically viable to be 100 percent recycled content, this vague obligation will disincentivize the use of recycled goods in favor of virgin fiber and will contradict the state’s long-term goal of increasing the use of recycled products.

#### **Sweeping Impacts, and Vendors Must Affirmatively Disprove Origins of Products**

Because the definition of forest policy is not clear that the forest policy applies ONLY to forest-risk commodities that explicitly and directly originate from tropical and boreal latitudes, the potential impacts to all forest-risk commodities remain significant. How does a contractor or vendor prove a product or forest risk product or derivative did not come from a tropical or boreal region, particularly if commodities can be sourced from multiple climates?

#### **Cost Impacts and Supply Chain Disruption in Construction and Housing**

S.5921-A/A.6872-A requires data detailing the complete list of direct and indirect suppliers and supply chain traceability information for each forest risk commodity found in products. This reporting requirement, especially when considering the existing forest certification chain of

custody programs, would create an outsized burden and violation of potentially proprietary business information for all companies but especially small New York-based companies.

There is increased demand for new homes and renovations, especially in dimensional lumber and panel products. The competitive market and availability have led to increased prices. This can increase pressure on an already stretched market for growth in construction and especially for low and moderate housing in New York as the state invests in affordable housing in an attempt to address the shortfall. This bill will only make the situation worse, with an outsized impact on state-supported housing options which will have a narrower field of options for supplies and increased bureaucratic burdens for potential vendors to shoulder when the state is seeking cost-efficiencies to support the widest constituency needing care.

In closing, we firmly believe this measure, as currently drafted, has unintended consequences for many industries, could have an inverse impact on our current environmental goals in New York, works contrary to New York's commitment to affordable housing, and puts the State of New York at risk from access to a diverse array of quality products meeting the highest international standards. For these reasons, we respectfully urge your opposition to this measure.

Alphabetized List of Signing Organizations:

- ABC Empire State Chapter
- American Forest & Paper Association
- American Wood Council
- Associated General Contractors of New York State
- Business Council of New York State
- Empire State Forest Products Association
- Greater Binghamton Chamber of Commerce
- Long Island Builders Institute
- New York State Builders Association
- New York State Farm Bureau
- North Country Chamber of Commerce
- Treated Wood Council
- Upstate United