



Empire State Forest Products Association

The people behind New York's healthy forests and quality wood products

www.esfpa.org

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Memorandum of Opposition

A 9711/S 8898

May 3, 2024

Honorable Kenneth Zebrowski
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The Empire State Forest Products Association has concerns with **A. 9711/S. 8898** as drafted which enacts the Tropical Rainforest Economic & Environmental Stability Act (TREES Act) requiring that companies contracting with the State do not contribute to tropical primary forest degradation or deforestation directly or through their supply chains. The bill would also establish a “Supply Chain Transparency Assistance Program” to assist small and medium-sized businesses and minority and women-owned businesses in achieving compliant supply chains.

The Empire State Forest Products Association (ESFPA) represents over 350 member businesses, industries and landowners engaged in forest resource production and stewardship of New York’s 19 million acres of forest. In total, \$22.9 billion dollars in annual industry production and nearly 100,000 jobs are attributable to operations of various industries within the forest related sectors.

ESFPA does not object to the intent of this legislation in discouraging State agency procurement of materials that contribute to unsustainable forest management, illegal logging, or contribute to degradation and deforestation of forests around the globe or domestically. In fact, ESFPA has and will continue to support national and international efforts that ensure supply chain transparency and encourage sustainable forest management that protects all forests and ensures that the world’s forests can provide the biodiversity, climate, and societal benefits that the world depends on.

We are committed to working with our national partners on the U.S. Lacey Act and the emerging Forest Act, as well as with the international partners on trade agreements and policies to curb deforestation and restore degraded lands, particularly in our tropical and

subtropical forest regions. The world is at risk of large-scale and potentially irreversible environmental changes, with major threats related to climate, biodiversity, natural resources, and human well-being. Our forests will play an extremely significant role in addressing these challenges while protecting the future human condition of local and Indigenous populations. Forest ecosystems are vital assets that must be restored, maintained, and sustainably managed. As such we need to design policy mechanisms based on sound science and consensus that will result in cost-effective options and wide-impact pathways toward healthy forests and tree resources and sustainable and resilient societies.

ESFPA supports the need to protect Tropical Rainforests, but we question how New York State (or any single state) can do this alone. While it would seem simple enough to just say “do not procure any raw material or product that is derived from or contributing to Tropical Rainforest deforestation or degradation,” doing so is much more complex and intricate than one could imagine.

ESFPA’s primary concern is over the terms and definitions in the bill. In defining terms such as “deforestation,” “forest degradation,” “tree plantation,” “at-risk commodity,” we urge serious scientific review, as these terms have not been vetted through the silvicultural and broader scientific communities. Upon review of international and domestic journals in forestry, it is clear that the definition of these terms is not all settled.

Similarly in the Supply Chain Transparency Assistance program section of this legislation, terms used for “transparent,” “traceable,” “ethical” and “sustainable” will be codified. Our concern is that these new terms and definitions would be referenced in future amendments to these sections of law, which some advocates have already indicated they want add other forest regions(i.e., Boreal Forest), or be referenced in other sustainability legislation impacting forestry and wood products made in North America or in New York. It is important to get these terms and definitions grounded in acceptable science now.

ESFPA has also raised concerns about how provisions of the legislation apply to tropical and non-tropical forest products alike. For instance, regulations that would be adopted to implement this legislation are expected to cover tropical forest-risk commodities (including all paper, all pulp, and all lumber), and a “set of responsible sourcing guidelines and policies derived from best practices in supply chain transparency to the point-of-origin.” We do not yet know how extensive such guidelines would be, but it will be important to monitor discussions held by the stakeholder advisory group convened to adopt such regulations. Likewise, the Supply Chain Transparency Assistance Program is expected to apply across all “raw materials” and industries.

ESFPA has raised concerns over the trade restrictive “mission creep” of this legislation and the long term impacts it may have on trade restrictions of forest products. Comments from the sponsors have indicated that this legislation is a precursor to pending action by the European Union Deforestation Rule (EUDR), and some ENGOS have indicated that that is the direction that the U.S. and New York should be going. That may be fine if it is done thoughtfully, but 20 of 27 EU nations are already reconsidering their engagement in the EUDR. We are also enclosing with this memo bi-partisan correspondence from the U.S. House of Representatives and the U.S. Senate to the U.S. Trade Representative expressing significant concerns on the EUDR.

We fully support State Agency procurement of products from sustainably managed forests and believe New York could do more to support businesses within our own state by giving preference to locally produced products. But we believe that New York should tread cautiously on how it pushes into this larger policy arena. ESFPA is working with our national affiliates on responses to the EUDR and

amendments to the Lacey Act, as well as the more recently introduced Forest Act. The NY TREES Act is not necessarily going to get us any closer to a better national or international response and may, in the meantime, burden NY based wood products with unnecessary regulation and the unintended consequences more than it will help us.

Again, while we appreciate the sponsors' good intentions in advancing this legislation, the Empire State Forest Products Association cannot support this legislation for the reasons stated above.

cc: Senate Finance Committee Members
Assembly Government Operations Committee Members

For More Information Contact:

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