



# American Forest & Paper Association

Abigail Sztejn  
Director, Government Affairs  
American Forest and Paper Association  
[abigail\\_sztejn@afandpa.org](mailto:abigail_sztejn@afandpa.org)



John K. Bartow, Jr.  
Executive Director  
Empire State Forest Products Association  
[jbartow@esfpa.org](mailto:jbartow@esfpa.org)

## Definition and Purchase of Tropical Hardwoods

### Oppose S. 2865-A

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This legislation (S. 2865-A) would establish several definitions regarding sustainably managed forests, forest certification and forest certifiers regarding “Non-tropical hardwood species” and “Tropical Hardwood” species. In addition, it would direct state entities to “maximize the use of” “environmentally preferable building materials.” The legislation would also direct the Department of Environmental Conservation to establish an “eligible certifier” list. Finally, the legislation would authorize local governments to adopt stricter regulations governing commodity purchases.

The American Forest & Paper Association (AF&PA) and the Empire State Forest Products Association (ESFPA) support the legislative intent of this Act in preventing forest degradation or deforestation and the promotion of economic, environmental, and social standards to ensure forest health and sustainability. Our concern is that this legislation too narrowly defines sustainably managed forests and forest certification, places a preference on “environmentally preferable” materials contrary to sound environmental and climate policies, and could establish conflicting local procurement practices.

### Definitions of Sustainably Managed and Certified Forests

Forest certification standards and programs sprouted in the 1990’s to address rampant deforestation and mismanagement in developing countries as well as to ensure that consumers (public and private) could discern that their procurement and purchasing choices supported environmentally, socially and economically sound forest management and sourced wood products.

Forest certification programs provide a set of standards for sustainable forest management. These include standards for forest certification, wood fiber sourcing, and chain-of-custody. Forest land management standards ensure certified forest land is managed according to sustainable practices, as defined by the forest certification system. Wood fiber sourcing standards, which apply to suppliers and to manufacturers’ wood procurement operations, ensure fiber is purchased from responsible sources while promoting sustainable practices on non-certified lands. Chain-of-custody standards apply to suppliers and manufacturers allow the tracking of certified fiber through the supply chain and the use of certified content claims and labels on products. This legislation does not fully recognize the multiple

types of claims that are made through Chain-of-Custody standards and conflates sustainable forestry practices with sustainable forestry.

### **Eligible Certifier List**

This proposal would direct the Department of Environmental Conservation (DEC) to develop and “Eligible certifier list”. Rather than putting the DEC in a position to determine eligibility, this legislation would be better served by merely stating what standards, guidelines, and structure for sustainable forest management a third-party forest certification program should be comprised of. Credible forest certification programs include the following fundamental elements:

1. **Independent Governance and Standard Setting** – The governance body should include economic, environmental, and social interests and operate independently from participants and conformance verifiers or auditors.
2. **Multi-Stakeholder Standard Development** – A diverse group representing forestry, wildlife, conservation, industry, government, and academic expertise should establish an objective Standard for sustainable forestry with specific performance measures.
3. **Independent Certification** – Certification requires verifying conformance with the Standard during full certification and periodic surveillance audits. This should be accomplished by independent, qualified, and accredited third-party auditors. Auditors should meet professional standards established by an independent accreditation body such as the American National Standards Institute National Accreditation Board (ANAB).
4. **Credible Complaints & Appeals Process** – There should be a clear process for credibly responding to on-the-ground compliance concerns or certification challenges.
5. **Open Participation and Transparency** – Public and private sector landowners have access to any forest certification program for which they qualify.

Certification programs have become numerous as well as competitive, creating choice and flexibility in achieving the intended outcome of forest sustainability. No certification program can credibly claim to be the ‘best’ and no certification program that promotes itself as the “only certification option’ can maintain credibility. Forest ecosystems are complex and a simplistic ‘one size fits all’ approach to certification can not address all sustainability needs. What our policy should encourage is certification integrity and fostering participation in quality certification programs.

### **Environmentally Preferable Building Materials**

Environmentally sustainable building materials promise to offer useful, greener alternatives to traditional building materials. Many sustainable building options are available, and new innovative materials are entering the marketplace daily. While pursuit of “environmentally preferable building materials” is laudable, it probably should be addressed beyond a section of law addressing non-tropical and tropical hardwoods. The current bill language may have unintended consequences and cause substitution of less sustainable materials for wood. Wood and bio-based products are an extremely renewable, recyclable, reclaimable and sustainable product and should not be discriminated against in public policy.

## **Local Government Regulation**

We need to be careful about unbridled regulation of commodities that are more restrictive than the State. The language proposed in this bill also goes beyond tropical hardwoods and reaches to any wood product.

The New York Climate Action Council adopted the final Scoping Plan on December 19, 2022. This Plan includes recommendations both for sustainable forest management and procurement specifications for reducing embodied carbon in buildings. These recommendations should be included in any procurement proposal and in fact will be considered by GreenNY and the procurement standards adopted by the Office of General Services in ensuring implementation of the Scoping Plan.

## **Conclusion**

AF&PA and ESFPA oppose this legislation as drafted. We firmly believe that there are sustainable forest management practices and certification processes currently available that can accomplish the objectives of this proposal. If we are smart, through improved sound procurement policies and preferences we can conserve forests, improve biodiversity, sequester more carbon on forests and harvested wood products while meeting the economic and social needs of society locally and globally.