

STATE OF NEW YORK

5921--A

2021-2022 Regular Sessions

IN SENATE

March 23, 2021

Introduced by Sens. KRUEGER, COONEY, KAPLAN, MAY, REICHLIN-MELNICK, BIAGGI, BRISPORT, BROOKS, HOYLMAN, JACKSON, KAMINSKY, SEPULVEDA, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts -- recommitted to the Committee on Procurement and Contracts in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law, in relation to enacting the New York deforestation-free procurement act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "New York
2 deforestation-free procurement act".
3 § 2. Legislative Findings. The Legislature finds and declares the
4 following:
5 1. Tropical forests cover roughly 7 percent of Earth's surface, but
6 harbor close to 50 percent of all species on Earth.
7 2. Boreal forests represent about thirty percent of the global forest
8 area, help regulate the climate through the exchange of energy and
9 water, and are a large reservoir of biogenic carbon.
10 3. Human activity is the driving force behind the current rate of
11 species extinction, which is at least 100 to 1,000 times higher than
12 historical levels. The World Wildlife Fund's 2016 Living Planet Report
13 found global populations of fish, birds, mammals, amphibians, and
14 reptiles declined by 58 percent between 1970 and 2012.
15 4. Globally, an estimated 18,000,000 acres of forest, an area more
16 than half the size of New York State, are lost every year to deforesta-
17 tion according to the Food and Agriculture Organization of the United
18 Nations, with over one-half of Earth's tropical forests already gone. At
19 the current pace, the entirety of Earth's tropical rainforests will be
20 degraded or destroyed within the next 100 years.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 5. It has been estimated that at least 30 percent of the world's
2 greenhouse gas emissions come from deforestation and forest degradation.
3 Taking into account carbon sequestration potential, stopping the loss of
4 tropical forests, mangroves, and wetlands could provide over 20 percent
5 of climate mitigation by 2030.

6 6. Loss of biodiversity resulting from forest degradation and defores-
7 tation, as well as human encroachment on formerly undisturbed ecosys-
8 tems, increases the risks of zoonotic disease pandemics such as COVID-
9 19.

10 7. New York State is a leader in addressing the climate crisis, with a
11 statutory goal of achieving net-zero greenhouse gas emissions economy-
12 wide by 2050.

13 8. Tropical deforestation in many countries is closely associated with
14 violations of the land rights of indigenous peoples and local communi-
15 ties and with the exploitation of workers, including forced labor and
16 child labor, and in many cases is enabled by corruption, criminality,
17 and violence against land defenders.

18 9. Tropical deforestation in many countries is also closely associated
19 with illegal wildlife trafficking, including, but not limited to, vari-
20 ous bird and reptile species, many primate species, including great
21 apes, pangolins, and orangutans, and in many cases is enabled by
22 corruption, criminality, and violence against conservationists.

23 10. The primary factor leading to tropical deforestation is degrada-
24 tion and road-building associated with logging for timber, which opens
25 the door for deforestation caused by industrial-scale production of
26 agricultural commodities and conversion of forests into plantations for
27 the timber, pulp, and paper industry. Together, these are increasingly
28 known as "forest-risk commodities".

29 11. Industrial logging to make single-use tissue products, newsprint,
30 and lumber is a large driver of boreal forest degradation and deforesta-
31 tion, as is the exploration, development, and extraction of other
32 resources, such as mining, oil and gas development, and flooding for
33 hydroelectric projects.

34 12. New York is inadvertently promoting and sanctioning deforestation
35 and intact forest degradation through the purchase of goods and products
36 that have been produced in supply chains that contribute to deforesta-
37 tion and intact forest degradation.

38 13. New York has one of the largest economies in the world and its
39 purchasing power has significant market force, allowing it to play a
40 leadership role in preventing forest loss and supporting markets for
41 sustainably-sourced products.

42 14. It is the intent of the legislature that it be the policy of this
43 state to ensure companies contracting with the state are not contribut-
44 ing to tropical or boreal deforestation or intact forest degradation
45 directly or through their supply chains.

46 § 3. Paragraphs b, c, d and e of subdivision 1 of section 165 of the
47 state finance law, as added by chapter 83 of the laws of 1995, are
48 amended to read as follows:

49 b. "Tropical hardwood" shall mean any and all hardwood, scientifically
50 classified as angiosperm, that grows in any tropical [~~moist~~] forest.
51 Tropical hardwoods shall [~~be~~] include but not be limited to the follow-
52 ing species:

53 Scientific Name	<u>Examples of Common [Name]</u>
54	<u>Names</u>
55 <u>Prunus Africana</u>	<u>African cherry, Red stinkwood</u>
56 <u>Caryocar costaricense</u>	<u>Ajo, Aji</u>

1	<u>Calophyllum spp.</u>	<u>Bintangor</u>
2	<u>Cedrela spp.</u>	<u>Cedar</u>
3	<u>Neobalanocarpus heimii,</u>	<u>Chengal</u>
4	<u>Balanocarpus heimii</u>	
5	<u>Octomeles sumatrana Miq.</u>	<u>Erima, benuang</u>
6	<u>Myroxylon balsamum</u>	<u>Estoraque</u>
7	<u>Apuleia leiocarpa</u>	<u>Garapa</u>
8	<u>Parastemon urophyllus, Parastemon</u>	<u>Malas</u>
9	<u>spicatus Ridley</u>	
10	<u>Hopea spp.</u>	<u>Merawan</u>
11	<u>Araucaria araucana</u>	<u>Monkey Puzzle, Chilean pine</u>
12	<u>Pterocarpus tinctorius</u>	<u>Mukula</u>
13	<u>Senna siamea</u>	<u>Siamese senna</u>
14	<u>Pometia pinata</u>	<u>Taun</u>
15	<u>Milletia leucantha Kurz</u>	<u>Thinwin</u>
16	<u>Bulnesia arborea, Bulnesia</u>	<u>Verawood, Argentine lignum</u>
17	<u>sarmientoi</u>	<u>vitae</u>
18	<u>Tristaniopsis laurina</u>	<u>Water gum</u>
19	<u>Terminalia spp.</u>	
20	<u>Homalium foetidum</u>	<u>Malas</u>
21	<u>Dillenia papuana</u>	<u>Dillenia</u>
22	<u>Canarium spp.</u>	<u>Red Canarium, Grey Canarium</u>
23	<u>Burkrella macropoda</u>	<u>Rang rang</u>
24	<u>Octomeles sumatrana</u>	<u>Erima, Benuang</u>
25	<u>Dracontomelon dao</u>	<u>New Guinea walnut</u>
26	<u>Planchonella spp.</u>	<u>White Planchonella, Red</u>
27		<u>Planchonella</u>
28	<u>Lophopetalum spp.</u>	<u>Perupok</u>
29	<u>Carinian pyriformis</u>	<u>Abarco, Jequitiba</u>
30	<u>Mitragyna ciliate</u>	<u>Abura</u>
31	<u>Vouacapous americana</u>	<u>Acapu</u>
32	<u>Amburana caerensis</u>	<u>Amburana, Cerejeira</u>
33	<u>Dalbergia melanoxylon</u>	<u>African Blackwood</u>
34	<u>Lovoa spp.</u>	<u>African Walnut, Tigerwood</u>
35	<u>Pericopsis elata</u>	<u>[Afrormosis] Afrormosia</u>
36	<u>[Shorea almon]</u>	<u>[Almon]</u>
37	<u>Aspidosperma megalocarpon</u>	<u>Acaretto</u>
38	<u>Peltogyne spp.</u>	<u>Amaranth, purpleheart</u>
39	<u>Terminalia amazonia</u>	<u>Amarillo Real</u>
40	<u>Guibourtia ehie</u>	<u>Amazaque</u>
41	<u>Amburana cearensis</u>	<u>Amburana, Cerejeira, cumare</u>
42	<u>Pterogyne nitens</u>	<u>Amendoim</u>
43	<u>Carapa guianensis</u>	<u>Andiroba, False Mahogany</u>
44	<u>Dicorynia guianensis</u>	<u>Angilique Cris</u>
45	<u>[Aningeris] Aningeria spp.</u>	<u>Aningeria, anegre,</u>
46		<u>anigre</u>
47	<u>Dipterocarpus [grandiflorus]</u>	<u>[Apilong] Apitong, Keruing</u>
48	<u>spp.</u>	
49	<u>Centrolobium spp.</u>	<u>Arariba, Amarillo</u>
50	<u>Brosimum utile</u>	<u>Baco</u>
51	<u>Shorea spp.</u>	<u>Balau, Selangan batu</u>
52	<u>Ochroma lagopus</u>	<u>Balsa</u>
53	<u>Ochroma pyramidale</u>	<u>Balsa</u>
54	<u>Myroxylon balsamum</u>	<u>Balsamo</u>
55	<u>[Virola spp.]</u>	<u>[Banak]</u>
56	<u>Anisoptera thurifera</u>	<u>Bella [Rose] Rosa</u>

1	<u>Guibourtia</u> <u>arnoldiana</u>	Benge, <u>Mutenye</u>
2	<u>Berlinia</u> <u>spp.</u>	<u>Berlinia</u> , <u>Rose Zebrano</u>
3	<u>Symphonia</u> <u>globulifera</u>	<u>Boar Wood</u>
4	Deterium [<u>Senegalese</u>] <u>senegalese</u>	Boire
5	<u>Caesalpinia</u> <u>echinata</u> ,	<u>Brazilwood</u> , <u>Pernambuco</u>
6	<u>Paubrasilia</u> <u>eschinata</u>	
7	<u>Bertholletia</u> <u>excels</u>	<u>Brazil Tree</u>
8	<u>Brosimum</u> <u>alicastrum</u>	<u>Breadnut</u>
9	<u>Guilbourtia</u> <u>spp.</u>	<u>Bubinga</u> , <u>African</u>
10	<u>(G. demusei</u> , <u>G. pellegriniana</u> ,	<u>Rosewood</u> , <u>Kevazingo</u>
11	<u>G. tessmannii</u>)	
12	<u>Toona</u> <u>calantas</u> , <u>Cedrela</u> <u>calantas</u>	<u>Calantas</u> , <u>Kalantas</u>
13	<u>Priora</u> <u>copaifera</u>	Cativo
14	<u>Cedrela</u> <u>odorata</u> , <u>Cedrela</u> <u>fissilis</u>	<u>Cedro</u> , <u>Cedar</u> , <u>Spanish cedar</u> ,
15		<u>South American cedar</u>
16	<u>Ceiba</u> <u>pentandra</u>	<u>Ceiba</u>
17	<u>Antiaris</u> <u>africana</u>	<u>Chenchen</u> , <u>Antiaris</u>
18	<u>Couratari</u> <u>guianensis</u>	<u>Coco Blanco</u>
19	[<u>Dalbergis</u>] <u>Dalbergia</u>	
20	<u>retusa</u>	[<u>Concebola</u>] <u>Cocobolo</u> ,
21		<u>Granadillo</u>
22	<u>Tabebuia</u> <u>donnell-smithii</u>	<u>Copal</u>
23	<u>Daniellia</u> <u>spp.</u>	<u>Copal</u> , <u>Daniellia</u>
24	<u>Cordia</u> <u>spp.</u>	<u>Cordia</u> , <u>Bocote</u> , <u>Ziricote</u> , <u>Louro</u>
25	<u>Hymenaea</u> <u>courbaril</u>	<u>Courbaril</u> , <u>West Indian Locust</u>
26	<u>Dipteryx</u> <u>odorata</u>	<u>Cumaru</u>
27	<u>Piptadeniastrum</u> <u>africanum</u>	<u>Dahoma</u> , <u>Banzu</u>
28	<u>Calycophyllum</u> <u>candidissimum</u>	<u>Degame</u> , <u>Legame Lancewood</u> ,
29		<u>Lemonwood</u>
30	<u>Afzelia</u> <u>spp.</u>	<u>Doussie</u> , <u>Lingue</u>
31	[<u>Diospyres</u>] <u>Diospyrus</u> <u>spp.</u>	<u>Ebony</u> , <u>Macassare</u> ,
32		<u>ebony</u> ,
33		<u>Ceylon ebony</u>
34	<u>Lophira</u> <u>alata</u>	<u>Ekki</u> , <u>Azobe</u> , <u>Bangassi</u> , <u>Akoura</u> ,
35		<u>Red Ironwood</u>
36	<u>Combretodendron</u> <u>macrocarpum</u>	<u>Esia</u> , <u>Essia</u>
37	<u>Cordia</u> <u>goeldiana</u>	<u>Freijo</u> , <u>Cordia Wood</u>
38	<u>Chlorophora</u> <u>tinctoria</u>	<u>Fustic</u> , <u>Yellow Wood</u> , <u>Tatajuba</u>
39	[<u>Aucoumes</u>] <u>Aucoumea</u> <u>klaineana</u>	<u>Gaboon</u> , <u>Okoume</u>
40	<u>Astronium</u> <u>spp.</u>	<u>Goncalo Alves</u> , <u>Zebrawood</u> ,
41		<u>Tigerwood</u>
42	<u>Ocotea</u> <u>rodiaei</u>	<u>Greenheart</u>
43	<u>Enterolobium</u> <u>cyclocarpum</u>	<u>Guanacaste</u> , <u>Rain Tree</u> ,
44		<u>Elephant Ear</u>
45	<u>Guarea</u> <u>spp.</u>	<u>Guarea</u> , <u>Bosse</u>
46	<u>Terminalia</u> <u>ivorensis</u>	<u>Idigbo</u> , <u>Framire</u> , <u>Black Afara</u>
47	<u>Phoebe</u> <u>porosa</u>	<u>Imbuia</u> , <u>Imbuya</u> , <u>Embuia</u> ,
48		<u>Brazilian Walnut</u>
49	<u>Handroanthus</u> <u>spp.</u>	<u>Ipe</u> , <u>Brazilian walnut</u> ,
50		<u>bethabarra</u> , <u>Pau d'arco</u> ,
51		<u>Ironwood</u> , <u>Lapacho</u>
52	<u>Chlorophors</u> <u>excelsa</u>	<u>Iroko</u>
53	<u>Hymenaea</u> <u>courbaril</u>	<u>Jatoba</u> , <u>"Brazilian Cherry"</u>
54	<u>Jacaranda</u> <u>copaia</u>	<u>Jacaranda</u>
55	<u>Machaerium</u> <u>villosum</u>	<u>Jacaranda Pardo</u>
56	<u>Dyera</u> <u>costulata</u>	<u>Jelutong</u>

1	<u>Dryobalanops spp.</u>	<u>Kapur, Keladan</u>
2	<u>Koompassia malaccensis</u>	<u>Kempas, Impas</u>
3	Acacia koa	Koa
4	<u>Entandrophragma candollei</u>	<u>Kosipo, Omu</u>
5	Pterygota macrocarpa	<u>Koto, African Pterygota, Ware</u>
6	<u>Oxandra lanceolate</u>	<u>Lancewood</u>
7	Shorea spp. [negrosensis]	[Red] <u>Lauan, Luan,</u>
8		<u>Lawaan, Meranti, White</u>
9		<u>meranti, yellow meranti, dark</u>
10		<u>red meranti, light red meranti,</u>
11		<u>Seraya, Tanguile, Bang,</u>
12		<u>Philippine Mahogany</u>
13	[Pentaeme contorta]	[White Lauan]
14	[Shores ploysprma]	[Tanguile]
15	<u>Nothofagus pumilio</u>	<u>Lenga</u>
16	<u>Guaiacum officinale</u>	<u>Lignum Vitae, Guayacan,</u>
17		<u>Ironwood</u>
18	Terminalia superba	<u>Limba, Afara, Ofram</u>
19	[Aniba duckei] <u>Aniba rosedora</u>	[Loure] <u>Brazilian</u>
20		<u>rosewood, pau rosa, bois</u>
21		<u>de rose</u>
22	<u>Nectandra spp.</u>	<u>Louro Preto</u>
23	[Kyaya ivorensis] <u>Khaya spp.</u>	[Africa] <u>African</u>
24		<u>Mahogany</u>
25	[Swietenia macrophylla]	[Amer. Mahogany]
26	<u>Swietenia spp.</u>	<u>American Mahogany, West Indian</u>
27		<u>Mahogany, Central American</u>
28		<u>Mahogany, Honduran Mahogany,</u>
29		<u>South American Mahogany,</u>
30		<u>Mexican Mahogany, Bigleaf</u>
31		<u>Mahogany, Little Leaf</u>
32		<u>Mahogany, Acajou, Caoba</u>
33		<u>Mogno</u>
34	Tieghemella [heckelii] <u>heckelii</u>	[Makora]
35		<u>Makore,</u>
36		<u>Baku</u>
37	<u>Diospyros marmorata</u>	<u>Marblewood, Zebrawood</u>
38	<u>Intsia bijuga, Intsia palembanica</u>	<u>Merbau, Ipil, Kwila</u>
39	<u>Anisoptera spp.</u>	<u>Mersawa, Krabak, Palosapis</u>
40	<u>Mora excelsa</u>	<u>Mora</u>
41	Distemonanthus benthamianus	<u>Movingui, Ayan</u>
42	<u>Terminalia amazonia</u>	<u>Nargusta</u>
43	<u>Pterocarpus spp.</u>	<u>Narra, Ambyna, Papua New Guinea</u>
44		<u>Rosewood, Red Sanders, Mukula,</u>
45		<u>Kosso, zitan, Hongmu</u>
46	<u>Palaguium spp.</u>	<u>Nyatoh, Padang, Pencil Cedar</u>
47	<u>Triplochiton scleroxylon</u>	<u>Obeche, Samba</u>
48	<u>Nauclea diderrichii</u>	<u>Opepe, Sibö</u>
49	Pterocarpus [soyauxii] spp.	[African] <u>Padauk,</u>
50		<u>Vermillion Wood</u>
51	[Pterocarpus angolensis]	[Angola Padauk]
52	<u>Millettia stuhlmannii</u>	<u>Panga Panga</u>
53	<u>Balfourodendron riedelianum</u>	<u>Pau Marfim</u>
54	Aspidosperma spp.	<u>Peroba, Rosa</u>
55	<u>Paratecoma peroba</u>	<u>Peroba Branca</u>

1	<u>Dalbergia frutescens, D. tomentosa</u>	<u>Pinkwood, Brazilia Tulipwood</u>
2	<u>Tabebuia donnell-smithii</u>	<u>Prima Vera, Roble, Durango</u>
3	Peltogyne spp.	Purpleheart
4	Gonystylus spp.	Ramin
5	<u>Melanorrhoea curtisii</u>	<u>Rengas, Borneo Rosewood</u>
6	<u>Nothofagus obliqua</u>	<u>Roble</u>
7	<u>Hevea brasiliensis</u>	<u>Rubberwood</u>
8	Dalbergia spp.	<u>Rosewood, Indian Rosewood,</u>
9		<u>Honduras Rosewood, cocobolo,</u>
10		<u>granadillo</u>
11	<u>Aniba duckei</u>	<u>Brazilian Rosewood</u>
12	<u>Entandrophragma cylindricum</u>	<u>[Sapela] Sapele,</u>
13		<u>Sapelli</u>
14	<u>Acanthopanax ricinofolius</u>	<u>Sen, Castor Arabia</u>
15	<u>Brosimum aubletti, Piratinera</u>	<u>Snakewood, Letterwood, Leopard</u>
16	<u>guianensis</u>	<u>Wood</u>
17	<u>[Shorea-philippinensis]</u>	<u>[Senora]</u>
18	<u>Juglans spp. (juglans</u>	<u>South American Walnut, Peruvian</u>
19	<u>australis, J. neotropica,</u>	<u>Walnut</u>
20	<u>J. Olanchana, etc.)</u>	
21	<u>Sterculia rhinopetala</u>	<u>Sterculia</u>
22	<u>Bagassa guianensis</u>	<u>Tatajuba, Bagasse</u>
23	Tectona grandis	Teak
24	Lovoa trichilloides	Tigerwood
25	<u>Entandrophragma utile</u>	<u>Utile, Sipo</u>
26	<u>Virola spp.</u>	<u>Virola, Cumala, Banak, Tapsava</u>
27	Millettia laurentii	Wenge
28	<u>Pentacme contorta</u>	<u>White Lauan</u>
29	Microberlinia [brazzavillensis]	Zebrawood,
30	<u>spp.</u>	<u>Zebrano, Zingana</u>

31 c. "~~rain~~ forests" shall mean [~~any and all forests classi-~~
32 ~~fied by the scientific term "Tropical moist forests", the classification~~
33 ~~determined by the equatorial region of the forest and average rainfall]~~
34 a natural ecosystem within the tropical regions, approximately bounded
35 geographically by the tropics of Cancer and Capricorn, but possibly
36 affected by other factors such as prevailing winds, containing native
37 species composition, structure, and ecological function, with a tree
38 canopy cover of more than ten percent over an area of at least 0.5
39 hectares. "Tropical forests" shall include all of the following: (i)
40 human-managed tropical forests or partially degraded tropical forests
41 that are regenerating; and (ii) forests identified by multi-objective
42 conservation based assessment methodologies, such as High Conservation
43 Value (HCV) areas, as defined by the HCV Resource Network, or High
44 Carbon Stock forests, as defined by the High Carbon Stock Approach, or
45 by another methodology with equivalent or higher standards that includes
46 primary forests and peatlands of any depth. "Tropical forests" shall not
47 include tree plantations of any type.

48 d. "Tropical wood products" shall mean any wood products, wholesale or
49 retail, in any form, including but not limited to plywood, veneer,
50 furniture, cabinets, paneling, siding, moldings, doors, doorskins, join-
51 ery, flooring or sawnwood, which are composed, in whole or in part, of
52 tropical hardwood [~~except plywood~~].

53 e. "Peat" means a soil that is rich in organic matter composed of
54 partially decomposed plant materials equal to or greater than 40 centi-
55 meters of the top 100 centimeters of the soil.

1 f. "Peatlands" means wetlands with a layer of peat made up of dead and
2 decaying plant material. Peatlands includes moors, bogs, mires, peat
3 swamp forests, and permafrost tundra.

4 g. "Secondary materials" means any material recovered from or other-
5 wise destined for the waste stream, including, but not limited to, post-
6 consumer material, industrial scrap material and overstock or obsolete
7 inventories from distributors, wholesalers and other companies but such
8 term does not include those materials and by-products generated from,
9 and commonly reused within, an original manufacturing process.

10 § 4. Paragraph b of subdivision 2 of section 165 of the state finance
11 law, as added by chapter 83 of the laws of 1995, is amended to read as
12 follows:

13 b. The provisions of paragraph a of this subdivision shall not apply
14 to:

15 (i) [~~Any hardwoods purchased from a sustained, managed forest, or~~
16 ~~(ii)~~] Any binding contractual obligations for purchase of commodities
17 entered into prior to August twenty-fifth, nineteen hundred ninety-one;
18 or

19 [~~(iii) The purchase of any tropical hardwood or tropical hardwood~~
20 ~~product for which there is no acceptable non-tropical hardwood species,~~
21 ~~or~~

22 ~~(iv) Where the contracting officer finds that no person or entity~~
23 ~~doing business in the state is capable of providing acceptable non-trop-~~
24 ~~ical hardwood species sufficient to meet the particular contract~~
25 ~~requirements, or~~

26 ~~(v)~~] (ii) Where the inclusion or application of such provisions will
27 violate or be inconsistent with the terms or conditions of a grant,
28 subvention or contract in an agency of the United States or the
29 instructions of an authorized representative of any such agency with
30 respect to any such grant, subvention or contract[~~, or~~

31 ~~(vi) Where inclusion or application of such provisions results in a~~
32 ~~substantial cost increase to the state, government agency, political~~
33 ~~subdivision, public corporation or public benefit corporation].~~

34 § 5. Section 165 of the state finance law is amended by adding a new
35 subdivision 9 to read as follows:

36 9. Deforestation-free procurement. a. For purposes of this subdivi-
37 sion, the following definitions shall apply:

38 (i) "Contractor" means any person or entity that has a contract with a
39 state agency or state authority for public works or improvements to be
40 performed, for a franchise, concession or lease of property, for grant
41 monies or goods and services or supplies to be purchased at the expense
42 of the agency or authority or to be paid out of monies deposited in the
43 treasury or out of trust monies under the control or collected by the
44 agency or authority.

45 (ii) "Forest-risk commodity" means any commodity and its derived
46 products, including agricultural and non-agricultural commodities but
47 excluding tropical hardwood and tropical wood products covered by subdivi-
48 sions one and two of this section, whether in raw or processed form,
49 that is commonly extracted from, or grown, derived, harvested, reared,
50 or produced on land where tropical or boreal deforestation or intact
51 forest degradation has occurred or is likely to occur. Forest-risk
52 commodities include palm oil, soy, beef, coffee, wood pulp, paper, logs,
53 lumber, and any additional commodities defined by the commissioner of
54 the office of general services pursuant to subparagraph (i) of paragraph
55 g of this subdivision, but do not include wood pulp or paper made
56 entirely from recovered fiber.

1 (iii) "Free, prior, and informed consent" means the principle that a
2 community has the right to give or withhold its consent to proposed
3 developments that may affect the land and waters it legally or customar-
4 ily owns, occupies, or otherwise uses, as described in the United
5 Nations Declaration on the Rights of Indigenous Peoples, the Indigenous
6 and Tribal Peoples Convention of 1989, also known as the International
7 Labor Organization Convention 169, and other international instruments.
8 "Free, prior, and informed consent" means informed, noncoercive negoti-
9 ations between investors, companies, or governments, and indigenous
10 peoples and local communities, prior to project development.

11 (iv) "Large contractor" means any contractor whose annual revenue, or
12 that of their parent company, is equal to or greater than one hundred
13 million dollars.

14 (v) "Point-of-origin" means the geographical location, as identified
15 by the smallest administrative unit of land, where a commodity was
16 grown, derived, harvested, reared, or produced.

17 (vi) "Recovered fiber" means postconsumer fiber such as paper, paper-
18 board, and fibrous materials from retail stores, office buildings,
19 homes, and so forth, after having passed through their end usage,
20 including used corrugated boxes, old newspapers, old magazines, mixed
21 waste paper, tabulating cards, and used cordage, and all paper, paper-
22 board, and fibrous materials that enter and are collected from municipal
23 solid waste; and manufacturing wastes such as dry paper and paperboard
24 waste generated after completion of the papermaking process, including
25 envelope cuttings, bindery trimmings, and other paper and paperboard
26 waste resulting from printing, cutting, forming, and other converting
27 operations, bag, box, and carton manufacturing wastes, and butt rolls,
28 mill wrappers, and rejected unused stock, and repulped finished paper
29 and paperboard from obsolete inventories of paper and paperboard
30 manufacturers, merchants, wholesalers, dealers, printers, converters,
31 and others.

32 (vii) "Deforestation" means direct human-induced conversion of trop-
33 ical or boreal forest to agriculture, a tree plantation, or other non-
34 forest land use.

35 (viii) "Intact forest degradation" means severe and sustained degrada-
36 tion of a tropical or boreal forest resulting in significant intact
37 forest loss and/or a profound change in species composition, structure,
38 or ecological function of that forest.

39 (ix) "Boreal forest" means a forest growing in high-latitude environ-
40 ments where freezing temperatures occur for six to eight months and in
41 which trees are capable of reaching a minimum height of five meters and
42 a canopy cover of ten percent.

43 (x) "Intact forest" means a forest that has never been industrially
44 logged and has developed following natural disturbances and under
45 natural processes, regardless of its age. Intact forests include forests
46 that have experienced non-industrial-scale human impacts, including
47 traditional or subsistence activities carried out by indigenous communi-
48 ties.

49 (xi) "New York state products" means products that are grown,
50 harvested, or produced in this state, or processed inside or outside
51 this state comprising over fifty-one percent raw materials grown,
52 harvested, or produced in this state, by weight or volume.

53 (xii) "Small business" means small business as defined in section one
54 hundred thirty-one of the economic development law.

1 (xiii) "Medium-sized business" shall mean a business that is resident
2 in this state, independently owned and operated, not dominant in its
3 field, and employs between one hundred and five hundred persons.

4 (xiv) "Minority-owned business enterprise" shall have the same meaning
5 as in article fifteen-A of the executive law.

6 (xv) "Women-owned business enterprise" shall have the same meaning as
7 in article fifteen-A of the executive law.

8 b. (i) Every contract entered into by a state agency or authority that
9 includes the procurement of any product comprised wholly or in part of a
10 forest-risk commodity shall require that the contractor certify that the
11 commodity furnished to the state pursuant to the contract was not
12 extracted from, grown, derived, harvested, reared, or produced on land
13 where tropical or boreal deforestation or intact forest degradation
14 occurred on or after January first, two thousand twenty-two. The
15 contractor shall agree to comply with this provision of the contract.

16 (ii) The contract shall specify that the contractor is required to
17 cooperate fully in providing reasonable access to the contractor's
18 records, documents, agents, employees, or premises if reasonably
19 required by authorized officials of the contracting agency or authority,
20 the office of general services, the office of the attorney general, the
21 department of environmental conservation, or the stakeholder advisory
22 group established in paragraph f of this subdivision, to determine the
23 contractor's compliance with the requirements under subparagraph (i) of
24 this paragraph.

25 (iii) Contractors shall exercise due diligence in ensuring that their
26 subcontractors comply with the requirements under subparagraph (i) of
27 this paragraph. Contractors shall require each subcontractor to certify
28 that the subcontractor is in compliance with the requirements of subpar-
29 agraph (i) of this paragraph.

30 (iv) In addition to the requirements of subparagraphs (i), (ii), and
31 (iii) of this paragraph, large contractors subject to subparagraph (i)
32 of this paragraph must certify that they have adopted a forest policy
33 that complies with regulations issued pursuant to subparagraph (vii) of
34 paragraph g of this subdivision. The adoption of forest policy by a
35 contractor, subcontractor, or supplier that is not a large contractor is
36 not required by this subparagraph but may be used to demonstrate compli-
37 ance with subparagraph (i) of this paragraph. Such forest policy and all
38 corresponding data shall be made publicly available, and shall contain
39 at a minimum all of the following:

40 A. Due diligence measures to identify the point-of-origin of forest-
41 risk commodities and ensure compliance with the policy where supply
42 chain risks are present.

43 B. Data detailing the complete list of direct and indirect suppliers
44 and supply chain traceability information, including refineries, proc-
45 essing plants, farms, and plantations, and their respective owners,
46 parent companies, and farmers, maps, and geo-locations, for each
47 forest-risk commodity found in products that may be furnished to the
48 state.

49 C. Measures taken to ensure the product does not contribute to trop-
50 ical or boreal deforestation or intact forest degradation, including:

51 (1) no development of tropical or boreal intact forests, and that the
52 product does not originate from a site where commodity production has
53 replaced intact tropical or boreal forest after January first, two thou-
54 sand twenty-two;

55 (2) no development of High Carbon Stock (HCS) Forests;

56 (3) no development of High Conservation Value (HCV) Areas;

1 (4) no burning;

2 (5) efforts to ensure progressive reductions of greenhouse gas emis-
3 sions on existing plantations;

4 (6) no development on peat, regardless of depth;

5 (7) best management practices for existing plantations on peat; and

6 (8) where feasible, activities oriented towards peat restoration.

7 D. Measures taken to prevent exploitation and redress grievances of
8 workers and local communities, including:

9 (1) Respect for and recognition of the rights of all workers including
10 contract, temporary, and migrant workers.

11 (2) Respect for and recognition of land tenure rights of communities.

12 (3) Respect for the rights of indigenous and local communities to give
13 or withhold their free, prior, and informed consent to operations on
14 lands to which they hold legal, communal, or customary rights.

15 (4) Explicit policies and processes to prevent violence, intimidation,
16 and coercion of workers and local communities.

17 (5) Formal, open, transparent, and consultative processes to address
18 and redress all complaints and conflicts.

19 E. Measures taken to protect biodiversity and prevent the poaching of
20 endangered species in all operations and adjacent areas.

21 F. Measures taken to ensure compliance with the laws of countries
22 where forest-risk commodities in a company's supply chain were produced.

23 G. Measures to deter violence, threats, and harassment against envi-
24 ronmental human rights defenders (EHRDs), including respecting interna-
25 tionally recognized human rights standards, and educating employees,
26 contractors, and partners on the rights of EHRDs to express their views,
27 conduct peaceful protests, and criticize practices without intimidation
28 or retaliation.

29 (v) The provisions of subparagraph (i) of this paragraph shall not
30 apply when the inclusion or application of such provisions will violate
31 or be inconsistent with the terms or conditions of a grant, subvention
32 or contract with an agency of the United States or the instructions of
33 an authorized representative of any such agency with respect to any such
34 grant, subvention or contract.

35 c. (i) If it is determined that any contractor contracting with the
36 state knew or should have known that a product comprised wholly or in
37 part of a forest-risk commodity was furnished to the state in violation
38 of paragraph b of this subdivision, the contracting agency or authority
39 shall issue a written notice of violation and provide an opportunity for
40 such contractor to come into compliance. If, after such notice, a
41 contractor fails to come into compliance within a timeframe established
42 by the department, such contractor may, subject to subparagraph (ii) of
43 paragraph b of this subdivision, have either or both of the following
44 sanctions imposed:

45 A. The contract under which the prohibited forest-risk commodity was
46 furnished may be voided at the option of the state agency or authority
47 to which the commodity was furnished.

48 B. The contractor may be assessed a penalty that shall be the greater
49 of one thousand dollars or an amount equaling twenty percent of the
50 value of the product that the state agency or authority demonstrates was
51 comprised wholly or in part of a forest-risk commodity and furnished to
52 the state in violation of paragraph b of this subdivision. A hearing or
53 opportunity to be heard shall be provided prior to the assessment of any
54 penalty.

55 (ii) Notwithstanding subparagraph (i) of this paragraph, a contractor
56 that has complied with the provisions of subparagraph (iii) of paragraph

1 b of this subdivision shall not be subject to sanctions for violations,
2 of which the contractor had no knowledge, of the requirements of para-
3 graph b of this subdivision that were committed solely by a subcontrac-
4 tor. Sanctions described under subparagraph (i) of this paragraph shall
5 instead be imposed against the subcontractor that committed the
6 violation.

7 d. (i) Any state agency or authority that investigates a complaint
8 against a contractor or subcontractor for violation of this subdivision
9 may limit its investigation to evaluating the information provided by
10 the person or entity submitting the complaint and the information
11 provided by the contractor or subcontractor.

12 (ii) Whenever a contracting officer of the contracting agency or
13 authority has reason to believe that the contractor failed to comply
14 with paragraph b of this subdivision, the agency or authority shall
15 refer the matter for investigation to the head of the agency or authori-
16 ty and, as the head of the agency or authority determines appropriate,
17 to either the office of general services, the office of the attorney
18 general, or the department of environmental conservation.

19 e. (i) When a state agency or authority's contract for the purchase of
20 a commodity or product covered by this subdivision is to be awarded to
21 the lowest responsible bidder, an otherwise qualified bidder who is a
22 small or medium-sized business or a minority-owned or women-owned busi-
23 ness enterprise, or who will fulfill the contract through the use of New
24 York state products, may be given preference over other bidders,
25 provided that the cost included in the bid is not more than ten percent
26 greater than the cost included in a bid that is not from a small or
27 medium-sized business or a minority-owned or women-owned business enter-
28 prise or fulfilled through the use of New York state products.

29 (ii) The provisions of this paragraph shall not apply if the head of
30 the contracting state agency or authority purchasing such products, in
31 his or her sole discretion, determines that giving preference to bidders
32 pursuant to the provisions of this paragraph would be:

33 (a) against the public interest;

34 (b) would increase the cost of the contract by an unreasonable amount;
35 or

36 (c) New York state products cannot be obtained in sufficient and
37 reasonable available quantities and of satisfactory quality to meet the
38 contracting state agency or authority's requirements.

39 (iii) Nothing in this paragraph shall be construed to conflict with or
40 otherwise limit the goals and requirements set forth by section one
41 hundred sixty-two of this article and articles fifteen-A and seventeen-B
42 of the executive law.

43 f. (i) The commissioner of the office of general services shall
44 convene a stakeholder advisory group which shall be consulted on the
45 creation of regulations pursuant to paragraph g of this subdivision, and
46 shall exercise an oversight role pursuant to paragraph h of this subdivi-
47 vision. Members of the advisory group shall be selected by the commis-
48 sioner and shall consist of at least:

49 (A) representatives of current or former state contractors dealing in
50 each of the forest-risk commodities specified in subparagraph (ii) of
51 paragraph a of this subdivision, with an emphasis on small and medium-
52 sized businesses;

53 (B) representatives from civil society with relevant expertise in
54 supply chain traceability, tropical and boreal forest sustainability,
55 biodiversity, climate science, human and labor rights, and indigenous
56 rights. Members selected pursuant to this clause should be of at least

1 equal number to members selected pursuant to clause (A) of this subpara-
2 graph; and

3 (C) a minimum of two additional representatives from indigenous commu-
4 nities within the geographic areas containing tropical and boreal
5 forests covered by this subdivision.

6 (ii) The stakeholder advisory group shall select a chair from among
7 its members, subject to approval by a majority of members.

8 (iii) Members of the stakeholder advisory group shall receive no sala-
9 ry, but shall be reimbursed by the office of general services for any
10 necessary travel expenses related to participating in the stakeholder
11 advisory group.

12 g. On or before July first, two thousand twenty-three, the office of
13 general services shall issue regulations for the implementation of this
14 subdivision. Such regulations shall be developed in consultation with
15 the stakeholder advisory group established in paragraph f of this subdivi-
16 vision and the commissioner of the department of environmental conser-
17 vation. Such regulations shall include, but not be limited to, all of
18 the following:

19 (i) A list of forest-risk commodities subject to the requirements of
20 this subdivision, including, but not limited to, palm oil, soy, beef,
21 coffee, wood pulp, paper, logs, and lumber. The list shall be reviewed
22 and updated at least every three years. When evaluating inclusion of
23 additional commodities in the list, the commissioner of the office of
24 general services shall consider the impact of the commodity as a driver
25 of tropical or boreal deforestation or intact forest degradation, the
26 state of existing supply chain transparency and traceability systems for
27 the commodity, and the feasibility of including the commodity in the
28 requirements of paragraph b of this subdivision. The first review shall
29 include, but not be limited to evaluation of cocoa, rubber, leather and
30 other cattle-derived products.

31 (ii) A list of products derived wholly or in part from forest-risk
32 commodities.

33 (iii) A list of products furnished to the state or used by state
34 contractors in high-volume purchases that contain or are comprised whol-
35 ly or in part of forest-risk commodities.

36 (iv) A set of responsible sourcing guidelines and policies derived
37 from best practices in supply chain transparency to the point-of-origin.

38 (v) Guidance to assist contractors in identifying forest-risk commod-
39 ities in their supply chain, performing necessary due diligence to meet
40 the requirements of this subdivision, and certifying that the commodity
41 did not contribute to tropical or boreal deforestation or intact forest
42 degradation.

43 (vi) A list of favored suppliers of forest-risk commodities and
44 products derived therefrom whose products have been determined to meet
45 the requirements of this subdivision.

46 (vii) The full set of requirements for a large contractor's forest
47 policy pursuant to subparagraph (iv) of paragraph b of this subdivision.

48 (viii) The process through which contractors shall certify to the
49 office of general services that they are in compliance with paragraph b
50 of this subdivision.

51 (ix) A process for ensuring that details of certified contracts are
52 made available for public inspection on the website of the office of
53 general services.

54 (x) An easily accessible procedure to receive public complaints and
55 information regarding violations of this subdivision.

1 h. (i) At any time after January first, two thousand twenty-four, but
2 no less frequently than every six months thereafter, the commissioner of
3 the office of general services shall submit to the stakeholder advisory
4 group established in paragraph f of this subdivision the details of all
5 contracts certified under this subdivision. The stakeholder advisory
6 group shall assess the compliance of all or a representative subset of
7 all contracts with the requirements of this subdivision. Following such
8 assessment, and subject to approval by a majority of members, the stake-
9 holder advisory group may:

10 A. Make recommendations to the commissioner of the office of general
11 services regarding changes to the regulations implementing this subdivi-
12 sion.

13 B. Make recommendations to the commissioner of the office of general
14 services, the office of the attorney general, the office of the state
15 comptroller, or a contracting agency or authority regarding deficiencies
16 in contract certifications, violations of this subdivision, and/or
17 enforcement actions.

18 (ii) All work products produced pursuant to subparagraph (i) of this
19 paragraph shall be made available to the public on the website of the
20 office of general services.

21 i. (i) Not later than June first, two thousand twenty-three, the
22 department of environmental conservation, in consultation with the
23 commissioner of the office of general services, shall complete a study
24 to determine whether or not the requirements of this subdivision shall
25 apply to forest-risk commodities originating in boreal forests.

26 (ii) In completing such study, the department of environmental conser-
27 vation shall consult with individuals, including academics and experts
28 from nongovernmental organizations, having expertise in forest sustaina-
29 bility, biodiversity, and climate science, as well as representatives of
30 indigenous communities located within boreal regions, and hold at least
31 one public hearing, and may base study findings on existing literature.

32 (iii) Such study shall examine, but not be limited to, the following
33 considerations:

34 A. The short- and long-term impact on greenhouse gas emissions, biodi-
35 versity, ecosystem function, and climate resilience, of clearcutting
36 intact boreal forests.

37 B. The differential impact on greenhouse gas emissions, biodiversity,
38 ecosystem function, and climate resilience of clearcutting intact boreal
39 forest versus previously logged or second-growth forest, within 30-year,
40 50-year, and 100-year timeframes.

41 C. The differential impact on greenhouse gas emissions, biodiversity,
42 ecosystem function, and climate resilience of clearcutting intact boreal
43 forest versus no industrial forestry activity, within 30-year, 50-year,
44 and 100-year timeframes.

45 D. The actual carbon storage capacity of various harvested wood
46 products, and the percentage of logged boreal biomass in each of the
47 boreal countries (Russia, Canada, the United States, Finland, Sweden,
48 Norway, Iceland, China, Japan) that ends up in long-lasting versus
49 short-term consumable end uses.

50 E. The effectiveness of existing available certification schemes in
51 use in each of the boreal countries in ensuring compliance with the
52 goals of this subdivision.

53 F. An independent assessment of the current greenhouse gas footprint
54 of the forest products industry in each of the boreal countries.

1 G. An independent assessment of whether current forest management
2 policies in each of the boreal countries are sufficient to prevent the
3 forestry industry's role in the decline of at-risk species.

4 H. The effectiveness of the forestry policies of each of the boreal
5 countries in ensuring the free, prior, and informed consent of indige-
6 nous peoples affected by industrial logging within the boreal forest.

7 I. The effectiveness of replanting practices in restoring the original
8 ecological benefits of intact boreal forest that has been logged, and
9 the timescale for restoring these benefits.

10 (iv) The requirements of this subdivision shall apply to all forest-
11 risk commodities unless the commissioner of the department of environ-
12 mental conservation and the commissioner of the office of general
13 services have, not later than June first, two thousand twenty-three,
14 jointly designated the provisions of this act inapplicable to forest-
15 risk commodities originating in boreal forests based on the results of
16 the study provided for in this paragraph.

17 j. (i) The certification requirements set forth in this subdivision
18 shall not apply to a credit card purchase of goods of two thousand five
19 hundred dollars or less.

20 (ii) The total amount of goods exempted pursuant to subparagraph (i)
21 of this paragraph shall not exceed seven thousand five hundred dollars
22 per year for each contractor from which a state agency or authority is
23 purchasing goods by credit card. It shall be the responsibility of each
24 state agency to monitor the use of this exemption and adhere to these
25 restrictions on these purchases.

26 k. This subdivision shall apply to all contracts entered into,
27 extended, or renewed on or after January first, two thousand twenty-
28 four.

29 l. Commencing two years after the effective date of this subdivision
30 and biennially thereafter, the commissioner of the office of general
31 services shall issue a report to the governor, the temporary president
32 of the senate, and the speaker of the assembly, on the implementation of
33 this subdivision and subdivisions one and two of this section.

34 § 6. This act shall take effect immediately and shall apply to all
35 contracts and binding contractual obligations entered into on and after
36 such effective date.