
TECHNICAL BULLETIN

Understanding “Due Care”

Verification of Legal Origin/Legal Compliance with the U.S. Lacey Act, the U.S. Foreign Corrupt Practices Act, the Forced Labor Law, and the U.S. Buy American Act.

The U.S. Lacey Act is a U.S. Federal regulation amended in 2008 that combats the commercialization of illegally harvested plant products, including but not limited to timber products. The goal of the Lacey Act is to prevent the sale of illegally harvested timber within the United States. As enforced by the U.S. Department of Agriculture and the U.S. Department of Justice, violation of the U.S. Lacey Act may result in the seizure of goods, fines, and prison sentences subject to the level of “Due Care” or lack thereof demonstrated by a company and its employees exposed during an investigation. Violations of the Convention on the International Trade of Endangered

Species (CITES), OFAC (U.S. Sanctions Law), U.S. Foreign Corrupt Practices Act (15 U.S.C 78dd-1), “Forced Labor Law” (19 U.S. Code 1307), and U.S. Buy American Act must also be considered as components of “Due Care” under any “Due Care” SOP (Standard Operating Procedure).

The importer that first brings the timber into the U.S. is responsible for the legal origin and trade of the wood. They must take all precautionary measures to ensure the timber is legally harvested, manufactured, exported, and imported. This must comply with all international laws pertaining to the legal trade in wood products, as referenced above.

To ensure the legal origin of the timber we trade, TFP has implemented “Due Care” SOP Standards, Policies, and Procedures as part of our Legal Lumber Chain of Custody “Due Care” Environmental Compliance Program.

The Due Care Standards, Policies, and Procedures we have developed are composed of various benchmarks that we apply to each shipment in order to eliminate the risks that the wood is “Due Care” compliant.

Every country has its own laws and regulations and requires specific “Due Care” benchmarks. The outline below is

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our "Due Care" method for the timber we source from Brazil. Part of the "Due Care" compliance is based upon the documentation obtained from the exporters in Brazil, which shows the entire chain of custody of the timber from the forest to import.

To ensure the legal origin of the timber, we distinguish four key points:

- 1. Vet your suppliers
- 2. Understanding the supply chain
- 3. Understand & know how to interpret the documentation
- 4. Take risk mitigation measures

1. Vet your suppliers.

Before we place orders, all suppliers are subjected to a risk assessment to determine that they are operating in good standing with all of the appropriate regulatory bodies within the country of harvest and if any historical or outstanding issues might require deeper evaluation. You can tell a lot about a company's future from its past. All suppliers must also submit certificates of compliance and indemnification for both the U.S. Lacey Act and the U.S. Foreign Corrupt Practices Act. These certificates confirm their commitment to the legal harvest and trade of wood products.

2. Understanding the supply chain... Every step is and must be controlled.

Under the U.S. Lacey Act, responsibility rests at every level of the supply chain.

Forest > Sawmill > Planning Mill > Exporter > Importer > Wholesaler > Retailer > Contractor > End User

The following are the four main types of Forest Management Plans (FMPs): federal concessions, state concessions, private concessions, and temporary projects. Each type of Forest Management Plan (FMP) has its own specific rules, and it is important to understand these in order to judge their legality. Furthermore, it is vital to understand and identify the different steps in the supply chain.

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3. Understand and know how to interpret the documentation

A typical supply chain consists of an AUTEF, followed by DVPF 1, GF 1, GF 3, a GF 3 Exportation, Certificate of Origin, and Lacey Act Declaration. At Timber Holdings USA, we take documentation some steps further.

A set of documents accompanies each step of the supply chain. An explanation of each is described as follows:

AUTEF (Autorização de Exploração Florestal) Forest Exploitation Permit: A logging permit is issued by Semas (the environmental governing body in Brazil) that allows a landowner/operator to harvest timber inside an annual production unit (UPA) within limits specified in the Annual Operational Plan (POA).

The AUTEF shows the forest's legal management and contains the forest's inventory. Besides the validity, location, forest engineer, etc., a crucial parameter is the volume of, e.g., species in a specific forest.

LAR (Licenciamento Ambiental Rural) Rural Environmental Licensing is issued by Semas for economic activities on a rural property.

CEPROF (Cadastro de Exploradores e Consumidores de Produtos Florestais): A register that contains details of the sites where forest products are harvested or who buys them for commercial purposes. CEPFOP is also used to generate a unique ID number for the company in the register.

DVPP (Documento de venda de Produtos Florestais) Sales document of forest products.

GF (Guia Florestal): A transport document that is generated in the Sisflora or DOF system in order to authorize the transportation of timber. Every consignment of timber must be accompanied by a GF as it moves between two stages in the supply chain.

GF 1, GF 3, Export GF 3: These documents show the volumes of timber that were sawn and eventually exported.

Conversion rates are applied to judge regarding the origin:

Logs => sawn: 55% max yield

Sawn=> decking 85% max yield

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GF3: Export must show the final destination with the volumes and scientific name while avoiding the double use of them.

DVPF/GF: With these documents, we verify the volumes of logs, the dates and duration of the transports, the geographical location, and the scientific names associated. The GF documents must match the DVPF.

DOF (Documento de Origem Florestal): Forest Origin Document. A term applied by IBAMA to the GF; also the name of the Federal timber chain of custody system managed by IBAMA (Sistema DOF).

Supplier Declaration of Source Controlled Wood: Issued by the exporting supplier, this declaration must list the entire chain of custody of the materials to be shipped from the point of harvest through to export, including supporting documentation.

Supplier Declaration of Compliance and Indemnification U.S. Lacey Act: Supplier Verification of understanding and compliance with the U.S. Lacey (Legal Timber) Act.

Supplier Declaration of Compliance and Indemnification U.S. Foreign Corrupt Practices Act: Supplier verification of understanding and compliance to the U.S. Foreign Corrupt Practices (anti-bribery) Act.

Supplier Declaration of Compliance and Indemnification Forced Labor: Supplier verification of understanding and compliance to the U.S. Forced Labor laws.

Slave Labor List: Issued by the Brazilian Ministry of Labor. This list documents those companies having been investigated for unfair labor practices. All companies identified in the chain of custody are vetted against this list.

Certificate of Origin (Certificado de Origem): Issued by the Brazilian Chamber of Commerce, the Certificate of Origin confirms Species, Volume, Country of Origin, Exporter, Importer, and is required as part of any import document package.

Lacey Act Declaration: Importer must declare to the U.S. Department of Agriculture, Species (botanical name) and Volume imported per shipment. The U.S. Department of Agriculture cross-checks this against the Convention on the International Trade of Endangered Species (CITES). Fraudulent submittal of this document is a felony violation subject to severe monetary penalties and potential incarceration (see U.S. Lacey Act Frequently Asked Questions).

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Importer Certificate of Compliance with the U.S. Buy American Act: Importer confirms understanding and compliance with the U.S. Buy American Act. Products sold into U.S. Federal projects must conform to the U.S. Buy American Act. This Certificate of Compliance verifies that there are no domestically available species of wood that have the comparable combined technical properties of Iron Woods™.

We only accept the timber when all the documentation is correct and the above conditions have been met, at which time we issue a Legal Lumber™ Certificate of Compliance.

4. Take risk mitigation measures... Self-regulation is not enough.

While many importers assume the risks associated with self-managed legal verification, TFP leaves nothing to chance. TFP engages an independent third-party NGO to audit the chain of custody documentation from harvest to export. Upon verification of compliance at every level, we receive an independent third-party "Verification of Legal Origin/Verification of Legal Compliance" document either recommending or not recommending, acceptance of goods.

Based upon these third-party audits, suppliers are placed into one of the three following categories.

- Red – Suspended. The vendor has been found to be non-compliant, and the supply is not recommended by an independent third-party NGO.
- Yellow – The chain of custody is clean, but the NGO has some concerns that require additional evaluation, oversight, clarification, or corrective action.
- Green – Chain of custody documentation is compliant. The product is recommended for purchase and shipment.
- A company must have "green status" to receive purchase contracts from Tropical Forest Products.

Note* TFP holds a valid FSC chain of custody certificate. FSC-certified wood products supplied by TFP are, by nature, of the FSC's voluntary participation and certification policies and procedures, compliant with Legal Lumber 'Due Care' Standards Policies and Procedures.