



Australian Government

Department of Agriculture,
Fisheries and Forestry

Establishing an illegal logging due diligence system

Guidance for processors



Purpose

This guidance is intended to provide processors of Australian grown raw logs with information on establishing an illegal logging due diligence system that meets the requirements of the Illegal Logging Prohibition Regulation 2012 (the Regulation).

More detail, advice and scenarios on the [due diligence process](#) is on the department's website.

Objective of your illegal logging due diligence system

Section 18 of the Regulation requires processors to have a written due diligence system in place before they process raw logs grown in Australia.

This needs to clearly set out the processes you will use to reduce the risk you are processing illegally harvested raw logs.

Your due diligence system needs to:

- set out the steps you will undertake before you process raw logs
- be regularly updated to ensure it remains relevant to your business situation
- be available to be provided to the department if you are chosen for a compliance audit.

The size, structure, and format of your due diligence system should be tailored to meet your business situation and needs. More complex supply chains and business structures may need more detailed due diligence systems. However, all systems need to include certain mandatory elements.

Administration details for due diligence system

Your due diligence system needs to be in writing and must include these administrative details:

- About your business
 - Business name
 - Australian Business Number (ABN) or Australian Company Number (ACN) (where applicable)
 - Street address
 - Postal address (if different to the above)
 - Telephone number
 - Email address
 - Business principal activity
- About the person responsible for maintaining your due diligence system
 - Name
 - Position
 - Telephone number
 - Email address

Content of your due diligence system

Your written due diligence system needs to describe the key steps you (or your employees) will undertake before you process an Australian grown raw log, including the requirement for record keeping. At a minimum, the system needs to address four key areas:

- 1) Gathering information
- 2) Identifying and assessing the risk
- 3) Risk mitigation
- 4) Record keeping.

Step 1 Gathering information

Section 19 of the Regulation requires processors to gather as much of certain information relating to the raw log prior to processing as it is reasonably practicable for the processor to obtain.

Your system needs to specify the information you will attempt to gather and record to support your due diligence process. It is important to note you need to gather as much relevant information about

the raw log as it is reasonably practicable to obtain (noting you may find it difficult to reach a reasonable risk assessment without suitable information).

The relevant information includes:

- About the raw log
 - Common name of the tree/s that it is derived from
 - Genus or scientific name of the tree/s that it is derived from
 - State or territory of harvest of the trees
 - Unit of harvest
- About your (direct) supplier
 - Name
 - Address
 - Trading name
 - Business and company registration number (if any).
- If a Timber Legality Framework (TLF) applies to the raw logs
 - A copy of the TLF certificate (either Forest Stewardship Council (FSC); or Programme for the Endorsement of Forest Certification (PEFC)) from your direct supplier that relates to the raw log.
 - Evidence of compliance with the framework, for example, an invoice containing the timber legality claim for the raw logs covered by the certificate.
- If a State Specific Guideline (SSG) applies to the raw logs
 - The information or evidence that the guideline requires the processor to obtain.
- Evidence that the product has not been illegally logged, which may include:
 - Whether harvesting of the species is prohibited in the harvest location
 - Whether legal conditions on harvesting were met
 - Whether any payments required for the right to harvest the timber have been paid
 - Whether the harvest was consistent with land use and tenure rights
- Any other information you know or ought reasonably know that may indicate whether the product is made with or includes illegally logged timber.

Step 2 Identifying and assessing the risk

Sections 20, 21 or 22 of the Regulation requires processors to undertake a risk assessment prior to processing to identify whether there is a risk that the raw log is illegally logged.

Your system needs to specify:

- how you will undertake your risk assessment using these options provided by the Regulation

- how you will reach your final risk identification/conclusion (low or nil risk/greater than low risk).

Your risk assessment must be undertaken prior to processing.

The three risk assessment options and the minimum requirements to identify and assess the risk are follows:

2.1 Timber Legality Framework (TLF)

The Regulation specifies two TLFs that you can use to help assess the risk. These are the Forest Stewardship Council (FSC) and the Programme for Endorsement of Forest Certification (PEFC).

Assessing the risk using this option includes, but is not limited to:

- a) Assessing whether the TLF certificate is valid for your direct supplier and the details on it are correct (usually done by checking your copy of the certificate against the certificate details on the FSC or PEFC websites). Make a verifiable record of the check you undertook.
- b) Verifying you have evidence that the raw log you are processing is covered by the FSC or PEFC certificate (usually done by checking you have supporting documentation (such as the invoice) containing the relevant certificate number and/or the framework legality claim).
- c) Considering the further information you were required to, as it was reasonably practicable, obtain.
- d) Considering any other information you know or ought reasonably know that may indicate whether the raw log is illegally logged. Make a verifiable record of the other information you considered.

If you conclude the raw log complies with the FSC or PEFC frameworks **and** there is no other information suggesting otherwise, then you may identify the risk to be 'low or nil.

If you identify the risk as being greater than low risk, you must re-assess using one of the other available risk assessment options.

Once you have reached your conclusion, you **must** make a written record of the risk conclusion **with** a justification of how it was reached. The identification and assessment of risk and outcomes of that identification and assessment must be reasonable.

2.2 State Specific Guidelines (SSGs)

The Regulation specifies that a processor may draw on an SSG to assess risk. Currently, we have SSGs for all Australian states (As the ACT and NT are territories, they do not have an SSG). These [SSGs](#) can be accessed through the department's website.

Before undertaking a risk assessment against an SSG, processors should check these webpages to ensure the documents you are referencing are the most up-to-date versions.

To assess the risk using this option:

- a) Consider the information or evidence you have gathered against the relevant SSG and the information provided in it.

- b) Consider the further information you were required to, as it was reasonably practicable, obtain.
- c) Consider any other information you know or ought reasonably know that may indicate whether the raw log was illegally logged. Make a verifiable record of the other information you considered.

If you conclude the raw logs comply with the information and documentation described in the relevant SSG and there is no other information suggesting otherwise, then you may identify the risk to be low or risk.

If you identify the risk as being greater than low risk you must re-assess using one of the other available risk assessment options.

Once you have reached your conclusion, you **must** make a written record of the risk conclusion **with** a justification of how it was reached. The identification and assessment of risk and outcomes of that identification and assessment must be reasonable.

2.3 Regulated risk factors (RRFs)

The Regulation specifies certain RRFs that can be used by a processor to assess risk. This is the default risk assessment method; it can be used as an alternative to the other two options and **must** be used when the other risk assessment options have concluded a greater than low risk exists.

To assess the risk using this option, you should consider:

- a) information regarding occurrence of illegal logging in the area where the trees were harvested.
- b) information regarding illegal logging of the species of trees in the area where the trees were harvested.
- c) the information you were required to gather in the information gathering section.
- d) any other information you know or should know that may indicate whether the raw log is illegally logged. Make a verifiable record of the other information you considered.

If you identify the risk as being low for each of the risk factors above and there is no other information suggesting otherwise, then you may conclude the overall risk is low or nil risk.

If you identify the risk as greater than low risk you must conduct risk mitigation, or not process the raw log.

Once you have reached your conclusion, you **must** make a written record of the risk conclusion **with** a justification of how it was reached. The identification and assessment of risk and outcomes of that identification and assessment must be reasonable.

You must make a verifiable record of the information used to inform the risk assessment. The identification and assessment of risk and outcomes of that identification and assessment must be reasonable.

Step 3 Risk mitigation

Section 23 of the Regulation requires processors to undertake a risk mitigation process prior to processing if section 22 applies to the raw log and the processor identified a risk greater than low that the raw log was illegally logged.

Your system needs to specify that you will undertake an adequate and proportionate risk mitigation process if the risk is, after undertaking a risk assessment against the Regulated Risk Factors (RRF), the risk has been identified as greater than low.

Risk mitigation means taking active steps to reduce or minimise the risks associated with the raw logs until they are low risk. This may mean obtaining further documentary information about the raw logs, requesting certified alternatives, conducting supporting field visits, or ultimately, deciding to use other suppliers.

If risk mitigation applies you may re-assess the risk again via the TLF, SSG or RRFs to determine whether the risk has been reduced to low or nil risk.

Once you have conducted a risk mitigation process, you must make a written record of the risk mitigation process undertaken. You must have verifiable records of the steps/information that informed your risk mitigation.

Step 4 Record keeping

Your system needs to specify record keeping requirements in accordance to section 25 of the Regulation. That is, records of all illegal logging due diligence steps must be kept for at least 5 years after the date of processing.

Request for information notice

When a Request for Information notice for a compliance audit is issued to you, you must provide the information requested, in writing and by the date specified.

At a minimum, this will include a copy of your due diligence system as well as evidence of the information gathered, risk assessment process conducted, risk conclusion reached and risk mitigation (if applicable). The department's [illegal logging compliance webpage](#) provides information to assist processors with how to respond to a Request for Information notice.

Processors that fail to comply with the requirements set out in this document can be liable for a civil penalty of 100 penalty units.

Acknowledgement of Country

We acknowledge the Traditional Custodians of Australia and their continuing connection to land and sea, waters, environment and community. We pay our respects to the Traditional Custodians of the lands we live and work on, their culture, and their Elders past and present.

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