



# Establishing an illegal logging due diligence system – guidance for processors

## Purpose

This guidance is intended to provide processors of 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.

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 due diligence system

Your due diligence system needs to describe the key steps you (or your employees) will undertake before you process a raw log, including the requirement for record keeping. At a minimum, the system needs to address 4 key areas:

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

### Gathering information

Your system needs to specify the information you will gather (including how you will prove you have gathered the information) to support your due diligence process. It is important to note you need to gather as much information about the raw log as is reasonably practicable (noting you may find it difficult to reach a reasonable risk assessment without suitable information).

The information must be relevant to the risk assessment option you choose to use and include:

- 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 registration number (if any).

Additionally, information for one or more of these risk assessment options:

- 1) If a Timber Legality Framework (TLF) applies to the raw logs (optional process)
  - a) 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.
  - b) Evidence of compliance with the framework, for example, an invoice containing the timber legality claim for the raw logs covered by the certificate.
  - c) Any other information you know or should know that may indicate whether the raw log is illegally logged.

This assessment option can only be used if the raw log is FSC or PEFC certified and your direct supplier is FSC/PEFC certified for the raw log.

- 2) If a State Specific Guideline (SSG) applies to the raw logs (optional process)
  - a) The information or evidence that the guideline requires the processor to obtain.
  - b) Any other information you know or should know that may indicate whether the raw log is illegally logged.

This assessment option can only be used if the raw log has been harvested in a state with a department approved SSG.

- 3) If the illegal logging regulated risk factors are used to assess the risk (alternative to TLF and SSG assessment options)
  - a) Information regarding the 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) Any other information you know or should know that may indicate whether the raw logs are illegally.

This is the default assessment option for conducting a risk assessment and can be used for all raw logs.

### **Identifying and assessing the risk**

Your system needs to specify:

- the risk assessment option/s provided by the Regulation
- how you will undertake your risk assessment using these options
- how you will reach your final risk identification/conclusion (low risk/not low risk).

This section also needs to explain that you are required to use one/or more assessment option to identify and assess the risk for the raw log.

The 3 risk assessment options and the minimum requirements to identify and assess the risk are follows:

#### 1) Timber Legality Framework (TLF)

The Regulation specifies 2 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).

To assess the risk using this option:

- a) Assess whether the TLF certificate is valid for your direct supplier and the details on it are correct (usually done by checking the certificate number on the FSC or PEFC websites).
- b) Verify you have evidence the raw log is covered by the FSC or PEFC certificate (usually done by checking you have a supporting invoice containing the relevant certificate number and the framework legality claim such as FCS %/PEFC 100%).

- c) Assess the information you were required to gather in the information gathering section.
- d) Assess any other information you know or should know that may indicate whether the raw logs are illegally logged.

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 risk'.

If you identify the risk as not being 'low risk', you must re-assess using one of the other available risk assessment options OR not process the raw logs.

Once you have reached your conclusion, you need to make a written record of the risk conclusion with a justification of how it was reached.

## 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.

To assess the risk using this option:

- a) Assess the information or evidence you have gathered against the relevant SSG.
- b) Assess the information you were required to gather in the information gathering section.
- c) Assess any other information you know or should know that may indicate whether the raw logs are illegally logged.

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 risk'.

If you identify the risk as not being 'low risk' you must re-assess using one of the other available risk assessment options OR not process the raw logs.

Once you have reached your conclusion, you need to make a written record of the risk conclusion with a justification of how it was reached.

## 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 and can be used if the other 2 options are not relevant.

To assess the risk using this option:

- a) Assess information regarding occurrence of illegal logging in the area where the trees were harvested.
- b) Assess information regarding illegal logging of the species of trees in the area where the trees were harvested.
- c) Assess the information you were required to gather in the information gathering section.

- d) Assess any other information you know or should know that may indicate whether the raw log is illegally logged.

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 risk'.

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

Make a written record of the risk conclusion with a justification of how the risk conclusion was reached.

### **Risk mitigation**

Your system needs to specify that you will undertake an adequate and proportionate risk mitigation process if the risk has been identified as not being 'low risk'.

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 and conclude that the risk is 'low risk' or not process the raw log.

Alternatively, if risk mitigation is not going to be conducted, your system needs to specify that raw logs identified as not 'low risk' will not be processed.

### **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).

Processors that fail to comply with the requirements set out in this document can be liable for a civil penalty of 100 penalty units (\$22,200).