



APEC Experts Group on Illegal Logging and Associated Trade (EGILAT)

Timber legality guidance template for the United States of America

The purpose of this guidance template document is to provide APEC member economies with guidance on compiling the appropriate information for businesses and governments within the APEC region regarding timber legality laws and regulations in place in the United States of America. It follows from multiple discussions at EGILAT meetings in which it was recognised that it would be beneficial to compile the laws or regulations of APEC economies governing timber production and trade with a goal of supporting legal timber trade between APEC members.

[Note: This document should reflect the laws or regulations that are in place within each APEC economy. Where a particular element of this document is not relevant to an economy, it does not need to be completed.]

Introduction to the Guidelines for the United States of America

Forest ownership and management in the United States is highly decentralized. Across the 50 states of which the United States is comprised, a broad array of laws, regulations, policy instruments, best management practices and capacity building programs are utilized to promote and enforce legal and sustainable forest management.

The United States does not utilize any centralized system for legality verification, due to its decentralized forest governance structure. There is no single specific nationwide government-issued document to denote legality. Similarly, across the 50 states and local jurisdictions with forest governance responsibilities, diverse requirements apply to timberland management and timber harvesting. Documents – if any – associated with compliance are likewise diverse in format and content.

The majority of forest land in the United States is privately owned. The U.S. legal system provides strong protections for personal property and U.S. citizens and enterprises value their property rights highly. Landowners of all types have readily available administrative and judicial options to resolve any dispute arising over use and access to their lands and title to timber assets.

U.S. timber producers face a highly competitive commercial environment in which forest management impacts the market value of timber resources in addition to producer reputation and enterprise sustainability. Strong stewardship is essential to maximizing returns on investment (RoI) of timber assets. The decentralized U.S. forest governance system is highly compatible with market-driven timber quality requirements.

A comprehensive non-government study was undertaken in 2008 to assess the status of lawful and sustainable harvest of certain U.S. wood exportsⁱ. Conclusions of the study providing context for these Guidelines included the following: (1) “there is less than a 1% risk of any illegal wood entering the U.S. hardwood supply chain. This is due to the combined effects of clear and fully enforced property rights, multi-generational family forest ownership, respect for the rule of law, and a strong civil society; and (2) “given the safety-net of national and state regulations and programs that address unlawful conduct and faulty forest practices, the need for traceability, independent chain of custody and/or controlled wood certification to demonstrate legality should not be a crucial consideration for U.S. sourcing of hardwood products.” This study is included in full in the Attachments segment of these Guidelines.

With respect to trade, although not a legality assurance system for imported timber, the U.S. has in place the [U.S. Lacey Act](#), amended in 2008. The Lacey Act prohibits trade in timber and wood products taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States, any Indian tribal law, any foreign law, or any law or regulation of any State, and enforcement action may be taken for anyone trading in wood harvested in violation of those laws.

*** Please note that there are hyperlinks throughout this document. Please press “Ctrl” + click on underlined words for more information about the topic.***

Overview of Timber Legality in the United States of America

NOTE: This section should provide general information on forestry and the timber industry in the United States of America.

This section may include information that answers the following questions:

- *Who owns forests in the U.S. (public, private, indigenous)?*
 - *Are there forests in the U.S. with different statuses (protected, production)?*
 - *Are there multiple jurisdictions for managing forests in the U.S.?*
 - *Which bodies or institutions are responsible for managing and regulating forests in the U.S.?*
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There are three forest ownership types in United States:

- (1) Federal
- (2) State/Tribal/County/Municipal
- (3) Private

Breakdown of forest land by ownership categoriesⁱⁱ:

Ownership Category	Percent of Total	Area (hectares)
Federal	31%	96,505,000 ha
State, Tribal, County, and Municipal	11%	33,467,000 ha, of which <ul style="list-style-type: none">▪ 7,527,153 ha are under Tribal ownershipⁱⁱⁱ
Private	58%	180,113,000 ha, of which <ul style="list-style-type: none">▪ Private corporate: 59,678,000 ha▪ Private non-corporate: 120,434,000 ha
Total:	100%	310,085,000 ha

How do you classify forests by types (protected forest, production forest, etc.)?

Some lands in the United States are designated specifically for timberland/production use and some lands are designated as reserved forest. However, many lands are considered multiple use forestland. Multiple use forestland is managed and used for a combination of production, protection, recreation, aesthetics and other services that forests provide. (US FS-1036, August 2014).

Forest Type		Area (hectares)	Detail
Timberland		211,000,000 ha	Production use
Reserved Forests		30,000,000 ha	Lands not managed for timber harvest; in most cases harvest is prohibited by law on these lands. ^{iv} These reserved forests include “National Parks” and federal and state lands set aside for conservation or protection.
Other Forests		76,000,000 ha	Woodlands, scrub forests, urban forests. The main purpose of these forests are not for timber production. However, to ensure healthy ecosystems of these areas, harvesting may occasionally occur on these lands.

Source: Forest Inventory and Analysis Program, 2012 data

About the Forest Inventory and Analysis Program

One of the most robust, longest running domestic forest inventory and analysis systems in the world, the U.S. Forest Service’s [Forest Inventory and Analysis Program \(FIA\)](#) has been in continuous operation since 1930, with a mission to “make and keep current a comprehensive inventory and analysis of the present and prospective conditions of and requirements for the renewable resources of the forest and rangelands of the U.S.” Using the latest technologies to acquire data through remote sensing and field activities, and in cooperation with States, industry, academia, and private landowner partners, the FIA reports on the most current information about forest health and productivity in each State every five years (FIA Fact Sheet Series 2/3/05).

The FIA program also conducts [Timber Products Output \(TPO\) studies](#) to estimate industrial and non-industrial uses of round wood in each US state. The studies determine location, size and types of mills in a state, the volume of round wood received by product species and geographic origin. The studies also identify the volume, type and disposition of wood residues generated during primary processing. FIA conducts logging utilization studies to relate TPO to inventory volume.

Who is in charge of the management of forests? Which department is in charge of the system on Restriction of Illegal logging and Associate Trade, and what is their contact information?

U.S. Forest Governance Structure

In the United States, a broad array of federal, state, local government, and tribal laws, regulations, policy instruments, capacity building programs, and best management practices are used to promote and enforce legal and sustainable forest management. The diversity of these approaches and their democratic underpinnings are a fundamental characteristic of the governmental structure and forest policy and management in the United States.

Over 50% of forest land in the United States is owned and managed by more than 10 million private owners. The largest percentage of these forests are ‘family and individual’ owned parcels of forest lands averaging less than 10 ha in size^v. These owners represent a diverse group of people who have many reasons for owning their forest land.

Federal and State agencies manage public lands for the American population for a multitude of uses, including conservation, production, and recreation.

Tribes, in association with the Bureau of Indian Affairs, manage their forested lands for similar uses, in particular cultural uses for Tribal citizens.

Federal Public Lands

A number of federal agencies have a role in managing federal public forest land. The following federal agencies are most involved in implementing and enforcing laws regarding management of federal forest lands:

- U.S. Department of Agriculture (USDA) Forest Service
- U.S. Department of the Interior (DOI) Fish and Wildlife Service
- DOI Bureau of Land Management
- DOI “National Park Service”
- Other agencies, including the U.S. Department of Defense (DOD)

State Lands and Private Lands

There are 50 states in the United States. While there are some federal laws that regulate all forest land, timber harvesting laws for non-federal forests are mainly enacted, implemented, and enforced at the State level. Because of this, the State level forestry and environmental regulatory agencies play a significant role in regulation of forestry activities in their State and determination of legality of timber harvests.

In 2000, 1,453 state government agencies or entities (departments, bureaus, divisions, and commissions) were known to implement policies and programs that influenced the condition (use, management, protection) of non-federal forests (Ellefson et al., 2001 and 2002).

Of that total, approximately 540 state government agencies or entities were engaged in some manner in the regulation of forestry practices on non-federal forests, 37 of which had forestry-related regulatory functions as their sole responsibility (issuance of permits, enforcement of rules, licensing of occupations). The remaining 500 or so entities exercised regulatory duties that were viewed as part of broader program responsibilities focused on non-federal forests (for example, chemical and pesticide abatement, resource protection [fire, insects, diseases], water pollutant management, air pollutant management, forest and wildlife management, mine and mineral reclamation, watershed and wetland management, waste management, and public health programs).

Tribal Lands

According to federal US law, a federally recognized tribe is an American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation, and is eligible for funding and services from federal agencies.

Furthermore, federally recognized tribes are recognized as possessing certain inherent rights of self-government (i.e., tribal sovereignty) and are entitled to receive certain federal benefits, services, and protections because of their special relationship with the United States. At present, there are 567 federally recognized American Indian and Alaska Native tribes and villages.

Tribes possess all powers of self-government except those relinquished under treaty with the United States, those that Congress has expressly extinguished, and those that federal courts have ruled are subject to existing federal law or are inconsistent with overriding -domestic policies. Tribes, therefore, possess the right to form their own governments; to make and enforce laws, both civil and criminal; to tax; to establish and determine membership (i.e., tribal citizenship); to license and regulate activities within their jurisdiction; to zone; and to exclude persons from tribal lands. Limitations on inherent tribal powers of self-government are few, but do include the same limitations applicable to states, e.g., neither tribes nor states have the power to make war, engage in foreign relations, or print and issue currency.

The ‘federal Indian trust responsibility’ is a legally enforceable fiduciary obligation on the part of the United States to protect tribal treaty rights, lands, assets, and resources, as well as a duty to carry out the mandates of federal law with respect to American Indian and Alaska Native tribes and villages^{vi}.

Ownership status of lands within Indian Country can be complex. There are three basic categories of land tenure: tribal trust lands, allotted trust lands, and fee lands. Most fall in the first category where lands are held in trust by the United States government for the use of a tribe. The United States holds the legal title, and the tribe holds the beneficial interest. The land is held communally by the tribe and is managed by a tribal government.

Which laws regulate timber harvesting and exportation in the United States of America?

NOTE: This section should provide a simple list of laws or regulations that regulate timber harvesting and exportation in the U.S. These laws may include laws that:

- *Authorise or regulate the harvesting or exportation of timber;*
- *Prohibit or regulate timber harvesting in specified locations, such as in parks, reserves, or protected areas;*
- *Prohibit or regulate harvesting or exportation of specific tree species;*
- *Require any type of payment, such as royalties, stumpage, or other fees, for the right to harvest timber;*
- *Grant legal rights of use and tenure in relation to the place in which timber is harvested to people or groups of people, such as indigenous peoples;*
- *Prohibit or regulate the transportation, export, import, or transshipment of timber or wood products;*
- *Regulate the possession, purchase, sale, or processing of timber or wood products;*
and
- *Otherwise must be complied with for timber or wood products to be considered legally harvested or exported.*

Please list and provide links to these laws and regulations.

*** Please note that there are hyperlinks throughout this document. Please press “Ctrl” + click on underlined words for more information about the topic.***

In the United States there is no single/universal type of approval or regulation associated with felling. This is due to the decentralized structure of forest management governance and diversified ownership types. Accordingly, there are no single/universal types of documents associated with felling.

1) Timber Harvest on Federal Lands

Numerous laws and policies govern timber harvest on federal public lands, the main ones being the “National Forest Management Act” (NFMA), the Federal Land Policy & Management Act (FLPMA), National Environmental Policy Act (NEPA), Clean Water Act (CWA), “National Forest Roads and Trails Act,” and Endangered Species Act. Details of each are provided below.

All timber harvests on federal lands require comprehensive management plans, as well as the analysis of environmental impacts, alternatives to the proposed logging plans, and a public consultation period. Under NEPA, the public has the opportunity to comment on the plans and weigh in on agency decision-making. Federal land management agency

employees are responsible for monitoring federal logging and other activities. The public has a right to hold federal agencies accountable for compliance with federal environmental laws. There are numerous regulations and different kinds of permits/contracts required depending on the type of complexity and value/sale of the forest product. The following links provide more specific information in regards to:

U.S. Forest Service Lands:

<http://www.fs.fed.us/forestmanagement/products/contracts.shtml>

Bureau of Land Management Lands:

<https://www.blm.gov/programs/natural-resources/forests-and-woodlands/forest-product-permits>

<https://www.blm.gov/programs/natural-resources/forests-and-woodlands/stewardship-contracting>

Federal laws applicable to the harvesting of timber on federal public lands:

- [National Environmental Policy Act \(1970\)](#): requires federal agencies to evaluate the environmental and related social and economic effects of their proposed actions, and provide opportunities for public review and comment on those evaluations.
- [The National Forest Management Act \(1976\)](#): dictates US Forest Service planning activities on the federal lands under US Forest Service management, and numerous rules and regulations stipulate forest management activities on federal lands.
- [Federal Land Policy and Management Act \(1976\)](#): consolidates and articulates US Bureau of Land Management's (BLM's) management responsibilities, and in particular this law proclaims multiple use, sustained yield, and environmental protection as the guiding principles for public land management.
- [Organic Act of 1916](#): created the US National Park Service and its mission as managers for the conservation of National Parks and monuments.
- [Forest Resources Conservation and Shortage Relief Act \(1990\)](#): 100% export ban on logs from Federal lands west of the 100th meridian, and a ban in 1995 on log exports from State and other public lands (excluding Indian land) west of the 100th meridian. Ban on exports of unprocessed round wood harvested from federal lands in Alaska;
- [Tribal Forest Protection Act \(TFPA\) 2004](#): authorizes the Secretaries of the Department of Agriculture and the Department of the Interior to give special consideration to tribally-proposed Stewardship Contracting or other projects on Forest Service or Bureau of Land Management (BLM) Land bordering or adjacent to the Indian trust land to protect the Indian trust resources from fire, disease, or other threat coming off that Forest Service or BLM land.

2) *Timber Harvest on State and Private Lands*

Each of the 50 states of the U.S. has developed its own State-specific laws and requirements to regulate forest management, timber harvesting, exportation, taxes/royalties, land rights, and sale of wood products from non-federal forest lands in their State. In some States, there are also specific local and county laws.

The legal steps and accompanying documentation a company or individual must comply with when harvesting or trading timber is highly dependent upon the regulations and laws of the State in which the timber is harvested and where the wood products businesses operate; and in some cases, specific to the type of product they are manufacturing or trading.

Regulatory measures vary greatly among States. Some have fairly stringent mandatory regulatory forest management requirements; others rely on voluntary best management practices. Taxation and financial rules also vary among the different States, with some applying a tax at harvest in lieu of (and sometimes in addition to) annual assessments (Seneca Study).

A variety of government incentive programs at the federal, state, and local levels, such as the [Forest Stewardship Program](#), offer technical assistance, financial assistance, and tax relief for landowners who proactively practice responsible forest management.

The best way to determine legality requirements is to identify the State(s) in which the timber was harvested and/or the State in which the business is operating, and consult the relevant State Forestry agency and/or Department of Natural Resources.

Hyperlinks to the forest management agency of each State can be found through the internet based tool described below.

The [National Association of State Foresters](#) launched in February 2018 a new web based timber assurance tool to present US trading partners, governments, corporations and other interested entities with State information pertinent to the legality and sustainability of timber and wood products procured within the bounds of the United States and its territories. The website provides information that demonstrates realistic assurances of the low-risks posed from procuring US forest-based products from illegal and/or unsustainable sources. The web-based tool can be found at the following link:
<https://www.stateforesters.org/timber-assurance/>

Non-forestry-specific federal laws (all states and all ownership types)

In addition to any state and local laws, listed below are the federal laws that are applicable across all 50 states and all land ownership types.

- [Endangered Species Act \(1973\)](#): The purpose of the Endangered Species Act (ESA) is to protect and recover imperiled species and the ecosystems upon which they depend. Under the ESA, species may be listed as either endangered or threatened. “Endangered” means a species is in danger of extinction throughout all or a significant portion of its range. “Threatened” means a species is likely to become endangered within the foreseeable

future. All species of plants and animals, except pest insects, are eligible for listing as endangered or threatened.

- Under the ESA, the U.S. Fish & Wildlife Service has been designated to carry out the provisions of Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through the [Division of Management Authority and the Division of Scientific Authority](#). CITES requires each Party to regularly submit reports on how they are implementing the Convention. These reports may contain information on legislative and regulatory changes, as well as law enforcement, permitting, communications, and administrative matters. U.S. Reports can be found at this link: <https://www.fws.gov/international/cites/>
- [Clean Water Act \(1972\)](#): aimed at protecting clean water and wetlands.
- [Clean Air Act \(1973\)](#): requires federal agencies and states to have programs in place to protect air quality and visibility, including controls on prescribed burning and the use of ozone-depleting chemicals.
- The Coastal Zone Management Act (1972) (CZMA) – establishes a program designed to protect and restore the United States’ coastal communities and resources. As forestry in the U.S. is considered a non-point source of pollution, each State is required to develop a set of forestry [best management practices \(BMPs\)](#) designed to protect soil and water quality.
- [Federal Insecticide, Fungicide, and Rodenticide Act \(FIFRA\) \(1996\)](#): regulates chemical use in forest stands, whether for insect control or for vegetation management (Seneca).
- [Plant Protection Act \(2000\)](#): Prevents the introduction of forest and plant pests into the United States, or the dissemination of forest and plant pests within the United States.

3) *Timber Harvest on Tribal Lands*

- [The National Indian Forest Resources Management Act \(NIFRMA\) \(1990\)](#) - enacted as Title III of Public Law 101-630 (1990) – provides guidance on a range of challenges and objectives for Federal trust administration to support sustainable management of Indian forests.

- Department of the Interior – Bureau of Indian Affairs - Indian Forest Management Handbook and Directives: Provides information and procedures applicable to forest management on Indian forest trusts, including contracts, permits, and forest management planning: <http://www.bia.gov/bia/ots/dfwfm/forest-management-documents>.
- The Intertribal Timber Council periodically updates and publishes [the Indian Forestry and National Resources National Directory](#).
- NIFRMA (section 3111) directs the Secretary of the Department of the Interior (DOI), in consultation with the affected Indian tribes, to obtain periodic independent assessments of the status of Indian forest resources and their management every 10 years. Since the law was enacted, there have been [three assessments completed in 1993, 2003, and 2013](#).

How do timber harvesting laws operate in the United States of America?

NOTE: This section should provide information describing how the U.S.'s laws in the previous section operate, including the institutions in the U.S. that are responsible for managing and enforcing timber harvesting laws and regulations. This information will be important to inform trading partners about legal timber in the U.S.

This section may include general information that answers the following questions:

- *What are the requirements of legislation in the U.S. that authorises or regulates the harvesting or exportation of timber?*
- *What are the requirements of the laws or regulations that prohibit or restrict timber harvesting in specified locations, such as in parks, reserves, or protected areas;*
- *What are the requirements of the laws that prohibit or regulate harvesting or exportation of specific tree species;*
- *What are the requirements of the laws that require any type of payment, such as royalties, stumpage, or other fees, for the right to harvest timber;*
- *What are the requirements of the laws grant legal rights of use and tenure in relation to the place in which timber is harvested to people or groups of people, such as indigenous peoples;*
- *What are the requirements of the laws that prohibit or regulate the transportation, export, import, or transshipment of timber or wood products;*
- *What are the requirements of the laws that regulate the possession, purchase, sale, or processing of timber or wood products; and*
- *What are the requirements of any other laws that must be complied with for timber or wood products to be considered legally harvested or exported.*

Please describe the requirements of these laws in such a way as to narrate the path that legal timber takes from harvest to export, including the agencies and authorities responsible for the relevant steps.

*** Please note that there are hyperlinks throughout this document. Please press “Ctrl” + click on underlined words for more information about the topic.***

Due to the decentralized structure of forest management governance, diversified ownership, and dispersed supply chains in the US, there is no one simple answer to a “single narrated path or steps” that legal timber takes from harvest to export.

The numerous laws, policies, and voluntary practices that govern timber harvest, export, and relevant royalties/fees is dependent upon the ownership type, origin of harvest, and where the forest enterprise is legally based. The previous section provided a thorough overview of the main laws and links to state-specific information.

US laws are strictly enforced throughout the U.S. legal system, as are their subordinate rules and regulations. The U.S. also has very strong laws that govern infringement on private and public property, making it very difficult for timber theft to take place without penalties or prosecution. Administrative and judicial options are available to all landowners to resolve disputes over title to timber assets.

In terms of laws specific to import or export of timber, the [U.S. Lacey Act \(amended in 2008\)](#): The Lacey Act (16 U.S.C. Section 3371 et seq.) prohibits trade in timber and wood products harvested in violation of U.S. laws as well as laws of U.S. States, Native American Tribes, and foreign governments.

The Lacey Act makes it unlawful for any person to import, export, transport, sell, receive, acquire or purchase any plant or plant product (including any timber or wood product) that is taken, possessed, transported, or in violation of any law, treaty, or regulation of the United States, any Indian tribal law, any foreign law, or any law or regulation of any State.

The Lacey Act prohibition (16 U.S.C. Section 3372) specifically applies to laws that regulate: (1) the theft of plants; (2) the taking of plants from a park, forest reserve, or other officially protected area; (3) the taking of plants from an officially designated area; or (4) the taking of plants without, or contrary to, required authorization. The prohibition also applies to plants taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by State or foreign law; or in violation of any limitation under any law or regulation of any State or foreign law governing the export or transshipment of plants.

Violations of the Lacey Act provisions for trafficking in illegal plants or plant products may result in forfeiture of the product, civil monetary fines, or criminal penalties that may include fines and imprisonment. Goods made from illegally harvested plants may be seized and forfeited whether or not the person possessing them knows that the product is made from illegally harvested wood. Civil monetary fines or criminal misdemeanor penalties may be imposed on those who trade in illegally taken wood products if they fail to exercise due care to ensure that the product is legal. A person who exports or imports or otherwise traffics in an illegal plant or plant product, and who, in the exercise of due care, should have known the plant or plant product was taken, possessed, transported, or sold in an illegal manner, may be convicted of a misdemeanor criminal violation. Criminal felony penalties may be imposed if a person trades in timber or other plant products and they know that the tree or plant was taken, possessed, transported, or sold in some illegal manner.

The Lacey Act also makes it unlawful for any person to make or submit any false record, account, or label for, or any false identification of, any plant or plant product which has been or is intended to be “(1) imported, exported, transported, sold, purchased, or received from any foreign country; or (2) transported in interstate or foreign commerce.” (16 U.S.C. Section 3372(d)).

Persons who import into the United States plants or plant products, including timber and wood products, must file a declaration upon importation. The declaration must contain (1) the scientific name of the plant product, (2) the value of the importation, (3) the quantity of plant, and (4) the name of the country of harvest”. Enforcement of this declaration requirement is still being phased in. Information on the types of plant products subject to this declaration requirement is available at:

https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/SA_Lacey_Act

Licences, Permits and Certification Schemes

NOTE: This section should provide general information on any requirements for timber or wood products from the U.S. to have licenses, permits, or certifications. APEC member economies will want access to information that can be used to reduce the risk that timber harvested in the U.S. has come from illegal sources.

There may be a variety of requirements for timber harvested in the U.S. to be considered legal. These may include:

- *An authority or permit to harvest or felling licence*
- *An authority or permit to transport, process or trade*
- *An export permit, issued by the relevant government authority*
- *A certification or a domestic legality verification system*
- *A non-government certification (harvest or Chain of Custody) scheme recognised by the U.S.*

Please list the ways that someone purchasing timber from the U.S. could reduce the risk that the timber products have come from illegal sources, including the agencies responsible for issuing any documentation. Suitable examples of documentation should be included at Appendix A.

*** Please note that there are hyperlinks throughout this document. Please press “Ctrl” + click on underlined words for more information about the topic.***

The U.S. does not have one centralized system for legality verification due to the highly decentralized forest governance structure in the United States; nor is there one specific nation-wide government-issued document that denotes legality. Contracts of sale, permits for harvesting, documentation showing landownership, etc. -- all of these play a part in confirming legality. Individual companies may have in place environmental management systems that track their supply chains, and may also select to have their product supply chains undergo chain of custody certification by relevant certification systems.

Note that the definition and use of the word “certification” differs depending on the context in which it is used. For example, professionals operating in forestry may receive “certification” of their knowledge and skill to operate in the given field. In the forest management context, forestlands may receive “Sustainable Forest Management (SFM) certification” in which the forestlands are audited against standards by a third party. Many of these certification systems have a chain of custody component that can act as a verification of legality of timber.

Sustainable Forest Management Certification

Third party forest certification is a positive private sector innovation and one tool that can be used to verify and enhance sustainable forest management. While North American maintains one of the highest rates of hectares certified, many small nonindustrial forest landowners in the United States choose not to certify for a myriad of reasons, including the reporting and financial burden entailed with certification at the forest unit level. This is especially the case if timber harvesting only occurs once or twice within a generation, and is not the main use or source of income generation for their land.

The U.S. federal government neither mandates landowners in the U.S. to become certified, nor does it have the mandate to oversee and verify the numerous certification schemes. Moreover, the U.S. federal government carefully avoids policies that would favor one certification system over another.

In this context, forest certification is viewed as an independent activity to be undertaken at the sole discretion of the State and/or individual forest owner (Vogel 2008, Moore et al. 2012). Some US states and individual land owners have self-selected to certify their State and private lands. Many large corporate forest lands are certified.

There are three major forest certification schemes currently in use in the U.S. Approximately 20% of U.S. timberland is currently certified under one of these systems, with the large majority of the certified land being private lands.

- [**The Sustainable Forestry Initiative \(SFI\)**](#). SFI certifies approximately 60 million forest acres in the U.S., focusing primarily on larger firms. (Note: SFI reports a total of 280 million acres certified in North America and does not report U.S. specific numbers in its annual business report and related documents. The 60 million acre total for the U.S. is estimated by the American Forest and Paper Association (AF&PA) (2016)).
- [**The Forest Stewardship Council \(FSC\)**](#). FSC currently certifies approximately 35 million forest acres in U.S. as being sustainably managed and provides U.S. companies with CoC verification services.
- [**American Tree Farm System \(ATFS\)**](#). ATFS is a non-profit organization explicitly designed to provide certification and CoC services to smaller firms and land-owners in the United States. ATFS certifies approximately 22 million acres in the U.S.

Registration and Licensing of Harvests, Operators, and Buyers

- Every State uses a mix of voluntary and mandatory programs directed at registering, licensing, and/or certifying operators and professionals engaged in forest management, timber harvesting and the buying/selling of timber products. (Seneca Creek Study).

- In addition, private companies, State agencies, and professional societies, such as the Society of American Foresters, sponsor voluntary certification practitioner programs such as the Certified Forester program and Master Logger Program.

Legality of timber products manufactured in the United States of America

NOTE: This section recognises that timber products from the U.S. may use timber inputs from numerous jurisdictions in manufactured products. APEC member economies will want access to information that can be used to assess and reduce the risk that timber in the manufactured products from the U.S. has come from illegal sources.

In preparing this section, please indicate:

- *whether there are any arrangements, formal or otherwise, to trace timber supply chains in the U.S.;*
- *whether the U.S. has any legality assurance systems for domestic timber used in manufactured or complex products¹;*
- *whether the U.S. has any legality assurance systems for imported timber used in manufactured or complex products.*

Please list the ways that someone purchasing products with multiple timber inputs from the U.S. could reduce the risk that the timber products have come from illegal sources, including the agencies responsible for issuing any documentation. Suitable examples of documentation should be included at Appendix A.

*** Please note that there are hyperlinks throughout this document. Please press “Ctrl” + click on underlined words for more information about the topic.***

The United States does not have a formal, centralized national-scale legality assurance system that traces timber supply chains in the U.S.

Due to the sheer geographical size of the United States, complexity of the US timber supply chain, and the end mill location, timber may pass through several timber handlers and a regional consolidation or distribution center before arriving at a mill for processing. Individual companies may have in place environmental management systems that track their supply chains, and may also select to have their product supply chains undergo chain of custody certification by relevant certification systems.

¹ For the purposes of this document, a ‘complex product’ is taken to mean a product that includes wood that has been significantly transformed and potentially sourced from a range of timber species or harvest locations.

Other relevant non-government resources

NOTE: Please include in this section: any initiatives or government endorsed or supported entities or resources that assist in the identification of timber legality. Sources may include organisations, civil society groups or multilateral forums.

*** Please note that there are hyperlinks throughout this document. Please press “Ctrl” + click on underlined words for more information about the topic.***

“Assessment of Lawful Harvesting and Sustainability of U.S. Hardwood Exports.” Study Indicating Low Risk of Illegality of Timber Harvested in U.S.:

<https://www.illegal-logging.info/sites/files/chlogging/uploads/AHECRISKASSESSMENT.pdf>

In 2008 a comprehensive study on the level of risk associated with U.S. hardwood production showed that “there is less than a 1% risk of any illegal wood entering the U.S. hardwood supply chain. This is due to the combined effects of clear and fully enforced property rights, multi-generational family forest ownership, respect for the rule of law, and a strong civil society.”

The same study concluded, “given the safety-net of national and state regulations and programs that address unlawful conduct and faulty forest practices, the need for traceability, independent chain of custody and/or controlled wood certification to demonstrate legality should not be a crucial consideration for U.S. sourcing of hardwood products.”

The study was conducted by Seneca Creek Associates, supported by the American Hardwood Export Council (AHEC), to review and evaluate data useful in determining the level of risk associated with U.S. hardwood production with respect to its legality and sustainability. This assessment has been used by numerous parties as evidence indicating that there is very low risk that U.S. timber exports come from illegal sources. **An updated study is set to be released in early 2018.**

Legal Information Institute

Legal Information Institute is a small research, engineering, and editorial group housed at the Cornell Law School founded on the belief that everyone should be able to read and understand the laws that govern them, without cost. They keep a running list of timber protection related laws which can be found here:

(<https://www.law.cornell.edu/uscode/text/16/chapter-4>)

Forest Legality Initiative (FLI) Resources

[Forest Legality Initiative](#) is a multi-stakeholder project led by the World Resources Institute (WRI) aimed at reducing illegal logging through supporting the supply of legal forest products. Their website contains a wealth of information and best practices resources. In addition, WRI, in collaboration with the [International Wood Products Association \(IWPA\)](#), has hosted several [Wood Trade Compliance Training and Due Diligence Tools](#) courses for U.S. forest products importers. The course identifies challenges, strategies and resources for U.S. importers to comply with the Lacey Act.

Industry Association Resources

[American Hardwood Export Council \(AHEC\)](#): To help buyers of U.S. hardwood to comply with the European Union Timber Regulation and similar laws, AHEC has developed an online system to allow U.S. hardwood exporters to create an American Hardwood Environmental Profile (AHEP) with every individual consignment of product delivered to any market in the world.

While not specific to legality in regards to harvesting, below is information on two additional organizations whose work informs US building code and phytosanitary standards, regulations, and certifications:

[National Hardwood Lumber Association \(NHLA\)](#): The National Hardwood Lumber Association was founded in 1898 to establish a uniform system of grading rules for the measurement and inspection of hardwood lumber in the United States.

[American Lumber Standards Committee \(ALSC\)](#): The American Lumber Standards Committee Incorporated (ALSC), is comprised of manufacturers, distributors, users, and consumers of lumber, serves as the standing committee for the American Softwood Lumber Standard (Voluntary Product Standard 20) and in accordance with PS 20, administers an accreditation program for the grade-marking of lumber produced under the system. The ALS system also provides the basis for acceptance of lumber and design values for lumber by the building codes throughout the United States.

Who should I contact for further information?

NOTE: This section should provide details of the relevant government contacts for information on timber legality in the U.S.

There are numerous federal and state agencies involved in regulating and monitoring forest legality in the United States. The appropriate contact is dependent on the specific concern or question. For State specific questions, please contact the relevant State Forestry Agency (links provided earlier in this document). For other questions, below is a list of relevant agency contacts within the federal government.

US Department of Agriculture – Foreign Agricultural Service:

Fahran Robb: Fahran.rob主@fas.usda.gov

US Department of Agriculture – Animal Plant and Health Inspection Service:

Dorothy Wayson: Dorothy.C.Wayson@aphis.usda.gov

US Department of Agriculture – Forest Service

Jennifer Conje: Jconje@fs.fed.us

US Department of Commerce -

Joanne Littlefair: Joanne.Littlefair@trade.gov

US Department of Justice -

Laurie Dubriel: Laurie.Dubriel@usdoj.gov

US Department of State

Luke Thompson: ThompsonLD@state.gov

Office of the US Trade Representative

Laura Buffo: Laura_Buffo@ustr.eop.gov

Attachments

NOTE: This section is for any additional information, including copies of relevant sample documents or link to sites containing further information. Sample documents could include copies of a felling license, permit to harvest, license to harvest, export permit or government endorsed legality certification. Including copies of sample documents will allow APEC member economies, the private sector, and civil society to be aware of what they should look like

ⁱ Seneca Creek Associates, LLC, Assessment of Lawful Harvesting & Sustainability of U.S. Hardwood Exports, 2008

ⁱⁱ Oswalt, et. Al. 2014

ⁱⁱⁱ *An assessment of Indian forests and forest management in the United States*, Indian Forest Management Assessment Team 2013.

^{iv} This current count of Reserved Forests does not include some protected areas, such as the National forest roadless areas (which are considered IUCN Class VI). These roadless areas, (which account for approximately 13 million ha) are currently reported under 'timberland.' New inventories will provide more accurate data to place these lands in their proper category.

^v Seneca Creek Associates study, 2008

^{vi} <http://www.bia.gov/FAQs/index.htm>