

SECTION 7.
SFI LEGALITY REQUIREMENTS AND
POLICIES FOR AVOIDANCE OF
ILLEGAL LOGGING



SUSTAINABLE
FORESTRY
INITIATIVE

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SFI LEGALITY REQUIREMENTS AND POLICIES FOR AVOIDANCE OF ILLEGAL LOGGING

SFI LEGALITY REQUIREMENTS

Program Participants must comply with federal, provincial, state and local laws that cover a broad range of issues, and protect the environment, workers and people who live in the communities where they operate. They include federal, state, provincial or local *forestry*-related environmental laws and regulations found in the United States and Canada such as The Clean Water Act, The Endangered Species Act, The Species at Risk Act, and state or provincial forest practice laws. The social laws of the United States and Canada cover civil rights, equal employment opportunities, anti-discrimination and anti-harassment measures, workers' compensation, measures to protect indigenous peoples' rights, workers' and communities' right to know, wages and working hours, and occupational health and safety. Antitrust, business competition and other laws in the United States and Canada outline business procedures that must be followed.

The *SFI* program does not try to duplicate the comprehensive *sustainable forestry* laws and processes already mandatory in the United States and Canada. Both countries have mature legal systems that consistently discourage and punish illegal behavior. Given the wide range of due process and compliance mechanisms that ensure conformance with applicable laws, the *SFI Standard* purposefully focuses on continual improvement of the practice of *sustainable forestry*, forest *productivity*, environmental performance processes and community outreach that complements the existing legal framework.

When an *SFI Program Participant* procures wood offshore (beyond North America), the *SFI 2010-2014 Standard* stipulates the need to avoid *controversial sources* of supply, including *illegal logging* and *fiber sourced from countries without effective social laws*.

SFI Principle 9. Legal Compliance. To comply with applicable federal, provincial, state, and local *forestry* and related environmental laws, statutes, and regulations.

SFI Objective 12. Avoidance of Controversial Sources including Illegal Logging. To broaden the practice of *sustainable forestry* by avoidance of *illegal logging*.

Performance Measure 12.1. *Program Participants* shall ensure that their *fiber sourcing programs* support the *principles of sustainable forestry*, including efforts to thwart *illegal logging*.

Indicators:

1. Process to assess the risk that the *Program Participant's fiber sourcing program* could acquire material from *illegal logging*.
2. *Program* to address any significant risk identified under 12.1.1.
3. *Program* with *direct suppliers* to promote the *principles of sustainable forestry*.
4. Documented information that includes knowledge about *direct suppliers'* application of the *principles of sustainable forestry*.

SFI Objective 13. Avoidance of Controversial Sources including Fiber Sourced from Areas without Effective Social Laws. To broaden the practice of *sustainable forestry* by avoiding *controversial sources*.

Performance Measure 13.1. *Program Participants* shall avoid *controversial sources* and encourage socially sound practices.

Indicators:

1. Process to assess the risk that the *Program Participant's fiber sourcing* could take place in countries without effective laws addressing the following:
 - a. workers' health and safety;
 - b. fair labor practices;
 - c. indigenous peoples' rights;
 - d. anti-discrimination and anti-harassment measures;
 - e. prevailing wages; and
 - f. workers' right to organize.
2. *Program* to address any significant risk identified under 13.1.1.

SFI Objective 14. Legal and Regulatory Compliance. Compliance with applicable federal, provincial, state and local laws and regulations.

Performance Measure 14.1. *Program Participants* shall take appropriate steps to comply with applicable federal, provincial, state and local *forestry* and related social and environmental laws and regulations.

Indicators:

1. Access to relevant laws and regulations in appropriate locations.

2. System to achieve compliance with applicable federal, provincial, state or local laws and regulations.
3. Demonstration of commitment to legal compliance through *available regulatory action information*.

Performance Measure 14.2. *Program Participants* shall take appropriate steps to comply with all applicable social laws at the federal, provincial, state and local levels in the country in which the *Program Participant* operates.

Indicator:

1. Written policy demonstrating commitment to comply with social laws, such as those covering civil rights, equal employment opportunities, anti-discrimination and anti-harassment measures, workers' compensation, indigenous peoples' rights, workers' and communities' right to know, prevailing wages, workers' right to organize, and occupational health and safety.
2. *Forestry enterprises* will respect the rights of workers and labor representatives in a manner that encompasses the intent of the ILO core conventions.

SFI definition of controversial sources: Use of *controversial sources* are not allowed in SFI-labeled products. Controversial sources include *illegal logging* and fiber sourced from areas without effective social laws.

illegal logging: The theft of timber or logs and cutting in parks, reserves or other similar areas where otherwise precluded by laws such as the United States Lacey Act, as amended in 2008¹. The Act combats trafficking in "illegal" *wildlife*, fish, and plants. As of May 22, 2008, the Lacey Act makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken, possessed, transported or sold in violation of the laws of the United States, a State, an Indian tribe, or any foreign law that protects plants. In addition, see Section 7 in the SFI requirements document, *SFI Legality Requirements and Policies for Avoidance of Illegal Logging*, for SFI Inc's Policy on Illegal Logging.

¹ The Food, Conservation, and Energy Act of 2008 (Pub.L. 110-234, 122 Stat. 923, enacted May 22, 2008, H.R. 2419, Section 8204. Prevention of Illegal Logging Practices, also known as the 2008 U.S. Farm Bill). The Lacey Act also makes it unlawful to conduct these activities with respect to any plant (1) without payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulations of any State or any foreign country and (2) in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants. SFI has not included these prohibitions in its definition of illegal logging because they are covered by the requirement to comply with all applicable laws.

fiber sourced from areas without effective social laws: The United States and Canada have a strong legal framework. Fiber from countries without effective laws addressing the following will need a risk assessment:

1. workers' health and safety;
2. fair labor practices;
3. indigenous peoples' rights;
4. anti-discrimination and anti-harassment measures;
5. prevailing wages; and
6. workers' right to organize.

SFI POLICY ON ILLEGAL LOGGING²

The SFI program has strong existing measures in the SFI 2010-2014 Standard, SFI Responsible Fiber Sourcing Standard and the SFI Chain-of-Custody Standard to avoid illegal sources of supply. This appendix covers the issue as to whether an organization can certify one operation to SFI's Responsible Fiber Sourcing Standard (Section 4) or SFI's Chain-of-Custody Standard (Section 3) in the SFI requirements document, while another operation controlled by the company is engaged in *illegal logging*. This is an evolving issue and as international laws, regulations, agreements, treaties and definitions of *illegal logging* change, SFI Inc will review and update the language as necessary.

- a. SFI Inc. will not license any person or entity to use SFI's trademarks or labels, and SFI may revoke any licence previously granted, if **the proposed licensee or an Affiliate of the licensee has been found to have engaged in Illegal Logging by a government authority in the jurisdiction where the logging occurred³**, unless the evidence available to SFI supports a conclusion that, in the business judgment of the SFI Inc. Board, any incidents of Illegal Logging by the entity are followed by prompt corrective action and do not show a pattern of Illegal Logging.
- b. SFI Inc. will not license any person or entity to use SFI's trademarks or labels, and SFI may revoke any licence previously granted, if **the evidence available to SFI supports a conclusion that, in the business judgment of the SFI Inc. Board, the proposed licensee**

² As Approved by the SFI Board of Directors September 23, 2008.

³ This enables SFI to take action that is based on a government finding (conviction, court decision, regulatory decision, fine etc.) of *Illegal Logging*. SFI would not make any factual determinations of *illegal logging*, they would be made by the government. No audit of overseas operations is required unless and until such a finding is made.

or an Affiliate of the licensee has engaged in a pattern of *Illegal Logging*⁴.

- c. Any person or entity whose application for a SFI licence has been denied or whose license has been revoked pursuant to this section may reapply for a licence upon a showing that any past *Illegal Logging* has been stopped, that appropriate actions have been taken to prevent it from recurring, and that the proposed licensee and its Affiliates do not knowingly engage in *Illegal Logging*. Such showing shall be supported by a third party audit conducted by an *SFI certification body* accredited to conduct 2010-2014 *SFI Standard* certifications and shall include local expertise as part of the audit team⁵.
- d. As used in this section,
- “*Illegal Logging*” means logging on land where the entity conducting the logging has no legal right to harvest.
 - “*Affiliate*” means any person or entity that directly or indirectly controls, is controlled by, or is under common control with the proposed licensee.
 - “*Control*” means owning a majority of the stock, appointing a majority of the directors, or otherwise having the practical or legal power to direct the operations of a person or entity.

⁴ This enables SFI to take action against a company that is known to engage in a pattern of *Illegal Logging*, but that has NOT been subject to government enforcement actions (perhaps because the local government is corrupt or ineffective). The SFI Board would need to make the factual determinations based on the best evidence available to it. No audit of overseas operations is required unless and until such a finding is made.

⁵ The audit shall cover all operations in all jurisdictions where the *illegal logging* occurred.

⁶ This definition does not cover most environmental law violations. It is intended to be limited to timber theft.