

# Eliminating Lacey Act Misconceptions

## **“Lacey Act Legality Verification Does Not Need to Ensure Protection of the Forest Environment or Forest Certification”**

***This is not true.*** Lacey requires protection of the global forest environment from illegal logging and deforestation as clearly stated in the Lacey Act Conference Report quoted in §2.1 of the National Consensus Lacey Due Care Standard.

Forest Certification is the recognized global market mechanism to protect the forest environment, and a key component of achieving Lacey Act Due Care. As noted in the Standard §§1.4 and 3.3 respectively, federal agencies are required to follow consensus standards where there is no government standard as is the case for due care, and both the Justice Department and USDA state that a consensus standard can define due care.

## **“Lacey Act is Retroactive Covering Wood Harvested Before 2008 Even if Resold After 2008 Where There Was No Knowledge of Illegality and a Bona Fide Declaration is Filed.”**

***This is not true.*** The Mandatory Annex to the Due Care Standard identifies the law on retroactivity showing that Lacey’s 2008 amendment covering wood and paper products is not retroactive. Due Care Standard §1.6 states that the Standard constitutes a legal opinion thus *“providing a higher level of diligence and certainty for users that can be relied upon.”* This meaning for legal opinions is well recognized in the legal profession and legal opinions are frequently issued and relied upon.

## **“There are No Legally Binding Specifications Defining Lacey Due Care”**

***This is not true.*** The unanimously approved National Consensus Lacey Due Care Standard is the legally binding specification defining due care, protecting the forest environment globally, and certifying that wood and paper products are lawfully possessed and not contraband. A bona fide Standard Certification provides defenses to strict criminal supply chain liability, fines, incarceration, product seizure and forfeiture, and brand destruction. Strict criminal liability is criminal liability even though there is no fault.

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