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June 11, 2009

LACEY ACT IMPLEMENTATION

To our Clients:

The Lacey Act, which seeks to regulate trafficking in endangered wildlife, fish, and plants, was amended last year with passage of the 2008 Farm Bill.

The amendment is quite broad in scope as to what articles of commerce will require declarations by the importer regarding the species and harvest location of imported timber and wooden articles.

Attached you will find a federal register notice outlining the phase in schedule for production of a PPQ Form 505 (Plant and Plant Product Import Declaration), as well as a copy of this form.

Please review the attached and advise your suppliers of the need to provide this information.

More information can be found on USDA/Aphis web site:

http://www.aphis.usda.gov/plant_health/lacey_act/index.shtml

Form 505 can be found at:

http://www.aphis.usda.gov/plant_health/lacey_act/downloads/declarationform.pdf

Please feel free to call with any questions,

Dave Joyce

Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2008-0119]

Implementation of Revised Lacey Act Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food, Conservation, and Energy Act of 2008 amended the Lacey Act to provide, among other things, that importers submit a declaration at the time of importation for certain plants and plant products. The declaration requirements of the Lacey Act became effective on December 15, 2008; however, enforcement of the declaration requirement will be phased in and will begin on April 1, 2009 (unless the implementation date must be delayed slightly for technical reasons as described below). The purpose of this notice is to inform the public of the Federal Government's revised plan to phase in enforcement of the declaration requirement and other implementation plans.

DATES: We will consider all comments that we receive on or before April 6, 2009.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0119> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS-2008-0119, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your

comment refers to Docket No. APHIS-2008-0119.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Alex Belano, Assistant Branch Chief, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-8758.

SUPPLEMENTARY INFORMATION:

Background

The Lacey Act (16 U.S.C. 3371 *et seq.*), first enacted in 1900 and significantly amended in 1981, is the United States' oldest wildlife protection statute. The Act combats trafficking in "illegal" wildlife, fish, or plants. The Food, Conservation, and Energy Act of 2008, effective May 22, 2008, amended the Lacey Act by expanding its protection to a broader range of plants and plant products (Section 8204, Prevention of Illegal Logging Practices). As amended, the Lacey Act now makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken in violation of the laws of a U.S. State or any foreign law that protects plants. The Lacey Act also now makes it unlawful to make or submit any false record, account, or label for, or any false identification of, any plant. In addition, Section 3 of the Lacey Act, as amended (16 U.S.C. 3372), makes it unlawful to import certain plants and plant products without an import declaration. The declaration must contain, among other things, the scientific name of the plant, value of the importation, quantity of the plant, and name of the country from where the plant was harvested. For paper and paperboard products containing recycled content, the declaration also must include the

average percent of recycled content without regard for species or country of harvest.

Comment Analysis

On October 8, 2008, we published a notice in the *Federal Register* (73 FR 58925-58927, Docket No. APHIS-2008-0119) announcing our plans to begin phased-in enforcement of the declaration requirement on April 1, 2009, and provided dates and products covered for the first three phases of enforcement. We solicited comment on the proposed phase-in plan for 60 days ending on December 8, 2008, and received 124 comments by that date. The comments covered a range of topics, including the scope of the declaration requirement, the specific products covered in each phase, definitions of terms, length of phases, effects on trade/industry, and enforcement issues. While we will not provide specific responses to comments in this notice, we have revised the phase-in schedule based on the comments we received. Comments related to other aspects of our implementation plan for the declaration requirement are still being analyzed and those comments will be taken into account as we continue to implement the provisions related to the declaration requirement of the Lacey Act.

Revised Phase-in Schedule

After review of the comments received and further internal consideration, we have revised the phase-in schedule, which covers the period from December 15, 2008, to September 30, 2010. We have extended the length of each phase from 3 months to 6 months and provided an affirmative list of products that fall within each phase of enforcement of the declaration requirement. We revised the schedule by phasing in products largely based on their degree of processing and complexity of their composition. For example, phase II contains products that are minimally processed and/or of less complicated composition (e.g., wood in the rough, sheets for veneering). Phase III contains products that are more processed and of more complex composition (e.g., wood pulp and particle board). Finally, phase IV includes more highly processed products composed of materials from phases II and III (e.g., paper and

furniture). We continue to consider the applicability of the declaration requirement to products not included in the current phase-in schedule and we invite public comment on how the declaration requirement should be enforced as to these products.

The proposed phased enforcement schedule through September 30, 2010, is

described in the table below. It is important to note that while enforcement of the declaration requirement will be phased in and will begin no earlier than April 1, 2009, the other Lacey Act amendments are already effective, and actions to enforce provisions of the Act other than the

declaration requirement may be taken at any time. We invite public comment particularly on the products covered under phases III and IV of the revised plan, as well as on whether any additional Harmonized Tariff Schedule (HTS) chapters should be included in the current phase-in schedule.

PHASE-IN SCHEDULE OF ENFORCEMENT OF THE DECLARATION REQUIREMENT FOR GOODS OF, OR CONTAINING, PLANTS OR PLANT PRODUCTS *

I Present-March 2009	II April 1, 2009-September 30, 2009	III October 1, 2009-March 31, 2010	IV April 1, 2010-September 30, 2010
PPQ Plant Import Declaration Form will be available on Web site, and accepted after December 15, 2008. Domestic and International Outreach.	HTS Chapters: Ch. 44 Headings (wood & articles of wood). 4401—(Fuel wood) 4403—(Wood in the rough) .. 4404—(Hoopwood; poles, piles, stakes). 4406—(Railway or tramway sleepers). 4407—(Wood sawn or chipped lengthwise). 4408—(Sheets for veneering) 4409—(Wood continuously shaped). 4417—(Tools, tool handles, broom handles). 4418—(Builders' joinery and carpentry of wood).	HTS Chapters: Ch. 44 Headings (wood & articles of wood). 4402—(Wood charcoal) 4405—(Wood wool [excelsior]). 4410—(Particle board) 4411—(Fiberboard of wood) 4412—(Plywood, veneered panels). 4413—(Densified wood) 4414—(Wooden frames) 4415—(Packing cases, boxes, crates, drums). 4416—(Casks, barrels, vats, tubs). 4419—(Tableware & kitchenware, of wood). 4420—(Wood marquetry; caskets; statuettes). Ch. 47 Headings (wood pulp) 4701—(Mechanical wood pulp). 4702—(Chemical wood pulp, dissolving). 4703—(Chemical wood pulp, sulfate). 4704—(Chemical wood pulp, sulfite). 4705—(Combination mechanical and chemical). PLUS PHASE II	HTS Chapters: Ch. 44 Headings (wood & articles of wood). 4421—(Articles of wood, nesoi). Ch. 48 Headings (paper & articles of). 4801—(Newsprint). 4802—(Uncoated writing paper). 4803—(Toilet or facial tissue stock). 4804—(Uncoated kraft paper). 4805—(Other uncoated paper and board). 4806—(Vegetable parchment, etc.). 4807—(Composite paper and board). 4808—(Corrugated paper and board). 4809—(Carbon paper). 4810—(Coated paper and board). 4811—(paper coated, etc., other than 4803, 4809, or 4810). Ch. 94 Headings (furniture, etc.). 940169 (seats with wooden frames). 940330 (wooden office furniture). 940340 (wooden kitchen furniture). 940350 (wooden bedroom furniture). 940360 (other wooden furniture). 94039070 (wooden furniture parts). PLUS PHASES II & III.

* Declaration requirements are effective as of December 15, 2008. All declarations submitted must be accurate; false statements may be referred for enforcement. Failure to submit a declaration will not be prosecuted, and customs clearance will not be denied for lack of a declaration until after the phase-in date above.

With respect to the declaration requirement, the Federal enforcement agencies do not intend to refer for enforcement entries of products in HTS

chapters not listed in the above phase-in schedule, during the respective timeframes, unless APHIS publishes another notice in the **Federal Register**

announcing an amended implementation plan. Any such changes/additions would apply only to phases III or IV. There will be no further

changes to phase II. Should there be additions to phases III or IV, we intend to provide at least 6 months' notice to persons and industries affected by those changes to facilitate compliance with the new requirements. Changes will be announced in the **Federal Register**.

The Federal Government will conduct studies in order to inform implementation of the amended Lacey Act, including with respect to products under HTS headings not listed in the current phase-in schedule. In addition, consistent with the requirements of the statute, we will review our experience with implementation and make decisions, including promulgating regulations, to guide any further phase in of the declaration requirement.

Applicability of the Declaration Requirement

At present, we will be enforcing the declaration requirement only as to formal consumption entries (*i.e.*, most commercial shipments). Also at this time, we do not intend to enforce the declaration requirement for informal entries (*i.e.*, most personal shipments), personal importations, or mail (unless subject to formal entry), transportation and exportation entries, in-transit movements, carnet importations (*i.e.*, merchandise or equipment that will be re-exported within a year), and foreign trade zone and warehouse entries; however, we welcome public comment on enforcement of the declaration requirement with regard to those types of entries. Further, we will only enforce a declaration for the product being imported and not for sundries that ordinarily accompany the product (*e.g.*, tags, labels, manuals, and warranty cards).

Declaration Form

A printable declaration form is currently available for voluntary submission on the Internet at http://www.aphis.usda.gov/plant_health/lacey_act/index.shtml or from the person listed under **FOR FURTHER INFORMATION CONTACT**. You may submit completed declaration forms by mail to: The Lacey Act, c/o U.S. Dept of Agriculture, Box 10, 4700 River Road, Riverdale, MD 20737.

As indicated previously, we intend to collect the data required by the amended Lacey Act electronically and anticipate the majority of importers will not need to submit a paper declaration form. No agencies with Lacey Act enforcement authority will bring prosecutions or forfeiture actions for failing to complete the paper declaration form before April 1, 2009; however, if any person submits a form and it

contains false information, they may be prosecuted. We also invite public comment on the paper declaration form. Comments related to the content of the declaration form should be submitted by one of the methods provided under the heading **ADDRESSES** at the beginning of this notice and not to the Lacey Act mailbox. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), APHIS requested and received the Office of Management and Budget's emergency approval to collect information that the Lacey Act requires importers to include in the declaration and that is not already being collected for other purposes. The emergency approval is valid for 6 months and allowed us to collect the information and make the paper form available for immediate use. On January 5, 2009, we published an information collection notice in the **Federal Register** (74 FR 259-260, Docket No. APHIS-2008-0136) soliciting comments from the public (as well as affected agencies) on these information collection requirements and requesting an extension of the 6-month emergency approval.

Availability of Electronic System

The Department of Homeland Security's Bureau of Customs and Border Protection (CBP) already collects some of the information that the Lacey Act amendments require importers to include in their declarations. CBP is currently modifying its Automated Commercial System (ACS) to collect the remaining data required to be declared. As noted in our October 2008 **Federal Register** notice, we intend to begin enforcement of the declaration requirements upon completion of those modifications. At this time, CBP still anticipates completing the changes to the system by April 1, 2009, and phase II remains scheduled to begin on April 1, 2009. If there are any changes to that date, we will notify the public through a **Federal Register** notice.

Additional Information

APHIS will continue to provide the latest information regarding the Lacey Act on our Web site, <http://www.aphis.usda.gov>. The Web site currently contains the Lacey Act, as amended; a slideshow covering background and context, new requirements, commodities and products covered, information on prohibitions, and the current status of implementation of the declaration requirement of the Lacey Act; frequently asked questions; the phase-in implementation plan; and the paper declaration form. The Web site will be

updated as new materials become available. We encourage persons interested in receiving timely updates on APHIS's Lacey Act efforts to register for our stakeholder registry at <https://web01.aphis.usda.gov/PPQStakeWeb2.nsf> and select "Lacey Act Declaration" as a topic of interest.

Done in Washington, DC, this 29th day of January 2009.

William H. Clay,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9-2232 Filed 1-29-09; 4:15 pm]

BILLING CODE 3410-34-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; Initial Certification

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice; request for comments.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) is submitting the information collection listed below to OMB for approval under the provisions of the Paperwork Reduction Act. This notice solicits comments on those information collection activities.

DATES: Submit your written comments on the information collection on or before April 8, 2009.

ADDRESSES: Submit your comments on the requirements to Edward Yang, Chief Information Officer, Committee for Purchase From People Who Are Blind or Severely Disabled, 1421 Jefferson Davis Highway, Jefferson Plaza 2, Suite 10800, Arlington, VA 22202-3259; fax (703) 603-0655; or e-mail to rulecomments@abilityone.gov.

FOR FURTHER INFORMATION CONTACT:

Edward Yang to request a copy of the applicable forms or explanatory material at the addresses shown above.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR Part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. The Committee plans to submit a request to OMB to renew its

Plant and Plant Product Declaration Form



U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
PLANT PROTECTION AND QUARANTINE

Section 3: Lacey Act Amendments of 2008 (16 U.S.C. 3372)

Applicability of Declaration:

You are required to complete this form if you are importing any of the following:

Any wild member of the plant kingdom, including roots, seeds, parts, or products thereof, and including trees from either natural or planted forest stands, except:

1. Common cultivars, except trees, and common food crops (including roots, seeds, parts, or products thereof);
2. * Scientific specimens of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that are to be used only for laboratory or field research;
3. * Plants that are to remain planted or to be planted or replanted; or
4. Plants used exclusively as packaging material to support, protect, or carry another item, unless the packaging material itself is the item being imported.

* You must still complete this form if you are importing plants described under 3. and 4. that are listed:

- In an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);
- As an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or
- Pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.

SECTION 1 - Shipment Information

1. ESTIMATED DATE OF ARRIVAL: (MM/DD/YYYY)	
2. ENTRY NUMBER:	3. CONTAINER NUMBER:
4. BILL OF LADING:	5. MID:
6. IMPORTER NAME:	8. CONSIGNEE NAME:
7. IMPORTER ADDRESS:	9. CONSIGNEE ADDRESS:

I certify under penalty of perjury that, to the best of my knowledge and belief, the information furnished is true and correct:		
Signature	Type or Print Name	Date

Knowingly making a false statement in this Declaration for Importation may subject the declarant to criminal penalties in accordance with 16 U.S.C. 3373(d).

1. **Estimated Date of Arrival:** Enter the date (MM/DD/YYYY) that the product is expected to enter the United States of America.
2. **Entry Number:** Enter the U. S. Customs entry number assigned to this shipment.
(Format: xxx-xxxxxxx-x)
3. **Container Number:** Enter the number of the shipping container in which the product is being shipped - available from your shipping company. If there is no container number, please leave this section blank.
4. **Bill of Lading:** Enter the Bill of Lading (BOL) number assigned to this shipment - available from the shipping company. If there is no Bill of Lading number, please leave this section blank.
5. **MID:** Manufacturer Identification Code - available from the manufacturer or customs broker (19 CFR Appendix to Part 102).
6. **Importer Name:** Enter the name of the import company or individual for the product.
7. **Importer Address:** Enter the address of the import company or individual in #6.
8. **Consignee Name:** Name of the individual or company who ordered and will ultimately receive the shipment.
9. **Consignee Address:** Enter the address of the individual or company in #8.
10. **Description of the Merchandise:** Enter the name of the plant or plant product, and its use (example: wooden spoons for kitchenware). If the use is unknown, enter only the name of the product (example: lumber).
11. **HTSUS Number:** Enter the Harmonized Tariff Code for the merchandise described in #10 - available at <http://www.usitc.gov/tata/hts/>.
12. **Entered Value (in U.S. Dollars):** Write the entered value of the imported merchandise described in #10 in U.S. Dollars.
13. **Article/Component of Article:** Enter a brief description of each article, or component of an article, that is manufactured from plants or plant parts. (Example: A decorative item including a wood frame and 100 % recycled paperboard - enter the frame as a line item, and record the percent recycled material in the paperboard in section #13.)
14. **Plant Scientific Name:** For each article/component in #14 enter the scientific name (example: See next page). If the species of plant used to produce the product varies, and the species used to produce the product is unknown, enter each species that may have been used to produce the product.

- 15. **Country of Harvest:** Enter the country of origin (where the plant was harvested) (example: See below). If the country of harvest varies, and is unknown, enter all countries from which the plant material in the product may have been harvested.
- 16. **Quantity of Material:** How much product/merchandise is in the shipment (example: See below).
- 17. **Unit of Measure:** Use the drop down box on the form to enter the units for #17. (example: See below).

doz - dozen
 kg - kilograms
 m - meter
 m² - square meters
 m³ - cubic meters
 No. - number
 pcs - pieces
 t - metric tons
 bf - board feet

- 18. **% Recycled Material:** If the product is paper or paperboard, enter the percentage of recycled material it contains (0 - 100%). If the percentage of recycled material varies, enter the average percentage of recycled material used in the product (example: If the percentage of recycled material used is between 25% and 45%, enter 35%).

13. ARTICLE/COMPONENT OF ARTICLE:	14. PLANT SCIENTIFIC NAME: (Genus and Species)	15. COUNTRY OF HARVEST:	16. QUANTITY OF PLANT MATERIAL:	17. UNIT OF MEASURE:	18. % RECYCLED MATERIAL
Tables made of Mahogany	<i>Swietenia macrophylla</i>	Indonesia	500	No.	0
European ash lumber (2" x 4')	<i>Fraxinus excelsior</i>	Switzerland	352,000	BF	0

- 19. **Submission of Paper Declaration:** Importers should have the form available for Customs and Border Protection (CBP) to review at the port of entry. After CBP clears the shipment, the importer must mail the form to the USDA at the following address:

The Lacey Act
 c/o U.S. Department of Agriculture
 Box 10
 4700 River Road
 Riverdale, MD 20737

Note: Sign and Print your name, and write the date on both sections of the form.

SPECIAL NOTE: IF YOU HAVE FILED A LACEY ACT DECLARATION ELECTRONICALLY THROUGH THE CUSTOMS SYSTEM, THERE IS NO NEED TO FILE A PAPER DECLARATION.