

Phase-in Anticipated for Enforcement of Declaration Requirements under Amended Lacey Act

Declaration requirements under the recently amended Lacey Act, originally effective December 15, 2008, may be delayed until April 1, 2009, or later, under a plan which involves the development of an electronic system for gathering the required data.

The Lacey Act, 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, and plants. The Food, Conservation, and Energy Act of 2008 amended the Lacey Act by expanding its protection to a broader range of plants and plant products and requiring that importers submit a declaration at the time of importation for certain plants and plant products.

Under the amended Lacey Act, importers are required to submit a declaration which contains, among other things, the scientific name of the plant, value of the importation, quantity of the plant, and name of the country from which the plant was harvested. For paper and paperboard products with recycled plant content, the importer will not be required to specify the species or country of harvest with respect to the recycled plant product component, but will be required to provide the average percent recycled content. If the product also contains non-recycled plant materials, the basic declaration requirements still apply to that component of the product imported. For plant products (as opposed to plants), if the plant species from which they are made varies and are unknown, importers will have to declare the name of each species that may have been used to produce the product. Similarly, if a plant product is made of plant species commonly harvested in more than one country, and the country is unknown, the importer will be required to declare the name of each country from which the plant may have been harvested.

Products requiring declarations:

The scope of products that will require a declaration under the Lacey Act is broad and includes certain live plants, plant parts, lumber, wood pulp, paper and paperboard, and products containing certain plant material or products, which may include certain furniture, tools, umbrellas, sporting goods, printed matter, musical instruments, products manufactured from plant-based resins, and textiles.

Exclusions:

These declaration requirements do not apply to plants used exclusively as packaging material to support, protect or carry another item, unless the packaging material itself is the item being imported.

Definition of plant:

The terms "plant" and "plants" mean any wild member of the plant kingdom, including roots, seeds, parts, or products thereof, and including trees from either natural or planted forest stands.

"Plant" and "plants" exclude common cultivars, except trees, and common food crops (including roots, seeds, parts, or products thereof); a scientific specimen of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that is to be used only for laboratory or field research; and any plant that is to remain planted or to be planted or replanted.

Implementation Plan for Declaration Requirements:

Under a proposal outlined in the October 8, 2008, edition of the Federal Register, enforcement of the declaration requirements will begin upon completion of an electronic data collection system that is currently being developed. It is anticipated that the electronic system will be completed by April 1, 2009. Once the system is completed, all agencies with Lacey Act enforcement authority will employ a phase-in approach to enforcement of the declaration requirements. Prior to the availability of electronic filing, from December 15, 2008, to April 1, 2009, or as soon thereafter as the electronic system is available, paper declaration forms will be available for voluntary submission. No agencies with Lacey Act enforcement authority will bring prosecutions or forfeiture actions for failing to complete the paper declaration form before the electronic system for data collection is available (April 1, 2009, or after); however, any person who submits a form containing false information may be prosecuted. On April 1, 2009, or as soon thereafter as the electronic system for collecting the declaration is available, enforcement of the declaration for wood and certain wood products and certain live plants and related products will begin (see table below). During the initial few months of phase-in for any group of products, enforcement agencies will take into consideration any technical issues that may be encountered in the initial process of implementing the electronic filing system.

PROPOSED PHASE-IN SCHEDULE OF ENFORCEMENT OF THE DECLARATION REQUIREMENTS FOR GOODS OF, OR CONTAINING, PLANTS OR PLANT PRODUCTS* [Specific goods may be exempt **]		
I	II	III
Present—March 2009	Beginning April 1, 2009 (or as soon thereafter as an electronic system is available)	Beginning July 1, 2009 (approximate)
PPQ Plant Import Declaration Form will be available on Web site, and accepted after Dec. 15, 2008.	Harmonized Tariff Schedule (HTS) Chapters: Ch. 44 (wood & articles of wood)	HTS Chapters: Ch. 47 (wood pulp). Ch. 48 (paper & articles of). Ch. 92 (musical instruments). Ch. 94 (furniture). Plus chapters included in Phase II.
Domestic and International Outreach	Ch. 6 (live trees, plants, bulbs, cut flowers, ornamental foliage, etc.).	

Note: Chapter descriptions are for ease of reference only.
 * Declaration requirements are effective as of Dec. 15, 2008. All declarations submitted must be accurate; false statements are enforceable. 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.
 ** Example: In HTS Ch. 6, most live plants not listed under CITES, the ESA, or certain State laws would be exempt from these declaration requirements. See the Lacey Act regarding further exemptions.

Link to: [Federal Register](#)

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