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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. Enforcement of the declaration requirement began on April 1, 2009, and products requiring a declaration are being phased-in. The purpose of this notice is to inform the public of another phase of the Federal Government's enforcement schedule.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

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

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0119>.
- Postal Mail/Commercial Delivery: Send 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.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0119> or in our reading room, which 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) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy Wayson, National Policy Manager, Lacey Act Program, Compliance and Environmental Coordination Branch, PPQ, APHIS, 4700 River Road Unit 150, Riverdale, MD 20737; (301) 851-2036.

#### 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 illegally taken 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). 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, possessed, transported, or sold in violation of any law of the United States or an Indian tribe, or in violation of any State or foreign law that protects plants or that regulates certain specified plant-related activities. 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, makes it unlawful, beginning December 15, 2008, to import certain plants, including plant products, without an import declaration. The declaration must contain 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 containing recycled content, the declaration also must include the average percent of recycled content without regard for species or country of harvest. The plant import declaration requirement does 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. Currently, enforcement of the declaration requirement is being phased in, as described in three notices we published in the *Federal Register*,<sup>1</sup> the first on February 3, 2009 (74 FR 5911-5913, Docket No. APHIS-2008-0119), the second on September 2, 2009 (74 FR 45415-45418, Docket No. APHIS-2008-0119), and the third on February 6, 2015 (80 FR 6681-6683, Docket No. APHIS-2008-0119).

In our February 2009 notice, we committed to providing affected individuals and industry with at least 6 months' notice for any products that would be added to the phase-in schedule. The phased-in enforcement schedule began April 1, 2009. The most recent phase (V) began on August 6, 2015. The enforcement schedule is available on the Animal and Plant Health Inspection Service (APHIS) website at [http://www.aphis.usda.gov/plant\\_health/lacey\\_act/](http://www.aphis.usda.gov/plant_health/lacey_act/). 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.

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<sup>1</sup> To view these notices and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0119>.

Phase VI of the enforcement schedule, which would begin on October 1, 2020, is described below. We invite public comment on the products covered under this phase of the plan, as well as on whether any additional Harmonized Tariff Schedule (HTS) chapters should be included in the current phase-in schedule. Should there be additions to phase VI, 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*.

Ch. 33 Headings (essential oils)

- 3301295109-essential oils of cedarwood
- 3301295121-essential oils of linaloe or bois de rose
- 3301295139-essential oils of sandalwood
- 3301295150-essential oils of “other”

Ch. 42 Headings (trunks, cases, suitcases)

- 4202292000-trunks, cases, and suitcases of wood
- 4202992000-other, of wood, not lined
- 4202993000-other, of wood, lined

Ch. 44 Headings (wood and articles of wood)

- 441012-oriented strand board (OSB)
- 4415-cases, boxes, crates, drums, containers, pallets, box-pallets, etc.

Ch. 92 Headings (musical instruments)

- 9205902000-wind musical instruments: bagpipes
- 9205904020-clarinets
- 9205904080-other (woodwind instruments)
- 9205904060-flutes and piccolos

- 9206002000-drums
- 9207900040-musical instruments (fretted string instruments)
- 9209.92-parts and accessories for musical instruments of heading 9202
- 9209928000-parts and accessories for musical instruments
- 9209992000-parts and accessories for bagpipes
- 9209994040-parts and accessories for other woodwind instruments
- 9209998000-parts and accessories for musical instruments of heading 9202, other

Ch. 96 Headings (miscellaneous manufactured articles)

- 9620005500-monopods, bipods, tripods and similar articles of wood

Additional Information

APHIS will continue to provide the latest information regarding the Lacey Act on our website, [http://www.aphis.usda.gov/plant\\_health/lacey\\_act/](http://www.aphis.usda.gov/plant_health/lacey_act/). The website currently contains the Lacey Act, as amended; a slideshow covering background and context, 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; a link to the Lacey Act Web Governance System (LAWGS); and the paper declaration form. The website will be updated as new materials become available. We encourage persons interested in receiving timely updates on APHIS' Lacey Act efforts to register for our stakeholder registry at <https://public.govdelivery.com/accounts/USDAAPHIS/subscriber/new/> and select “Lacey Act Declaration” as a topic of interest.

## Paperwork Reduction Act

This notice contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The information collection activities included in this notice are approved by the Office of Management and Budget under control number 0579-0349.

## E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this notice, please contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851-2483.

Done in Washington, DC, this 26th day of March 2020 .

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Mark Davidson

Acting Administrator, Animal and Plant Health Inspection Service.

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