

UPDATE:**USDA Revises Implementation Plan for Declaration Requirement under Lacey Act**

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) recently published a Federal Register notice to announce revisions to its plan to enforce the plant declaration requirement of the Lacey Act. The declaration requirements of the Lacey Act became effective on December 15, 2008; however, enforcement of the declaration will be phased in and will begin April 1, 2009. This could be delayed slightly if the modifications to U.S. Customs and Border Protection's (CBP) electronic system used to collect the data to be declared are not completed, but at this time, CBP expects to begin enforcement on April 1st as scheduled.

APHIS provides that due to the comments received from the trade on the phase-in enforcement schedule published on October 8, 2008, they have revised the enforcement schedule covering the period from December 15, 2008 to September 30, 2010. The length of each phase has been extended from 3 months to 6 months, and an affirmative list of products that fall within each phase of enforcement has been provided. The schedule has been revised to phase in products based largely on their degree of processing and complexity of their composition. An example provided by APHIS shows Phase II containing products that are minimally processed and/or of less complicated composition (e.g., wood in the rough, sheets for veneering). Phase III, for example, will contain products that are more processed and of more complex composition (e.g., wood pulp and particle board. And finally, Phase IV includes more highly processed products composed of materials from phases II and III (e.g., paper and furniture). APHIS has indicated that they will continue to consider the applicability of the declaration requirement to products not included in the current phase-in schedule and invite public comment on how the declaration requirement should be enforced as to these products.

At this time, the enforcement of the declaration requirement will apply only to formal consumption entries (i.e., most commercial shipments). APHIS also provides that at this time, they 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 (T&E) entries, in-transit (IT) movements, carnet importations (i.e., merchandise or equipment that will be re-exported within a year), and foreign trade zone and warehouse entries; however, APHIS is inviting public comment on enforcement of the declaration requirement with regard to those types of entries. APHIS further provides that they 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).

Instructions for submitting comments are included in the Federal Register notice, which can be viewed online at <http://edocket.access.gpo.gov/2009/E9-2232.htm>.

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Revised Phase-In Schedule of Plant Declaration Requirements

Phase I Present–March 2009	Phase II April 1, 2009–September 30, 2009	Phase III October 1, 2009–March 31, 2010	Phase IV April 1, 2010–September 30, 2010
<p>PPQ Plant Import Declaration Form will be available on Web site, and accepted after December 15, 2008.</p> <p>Domestic and International Outreach.</p>	<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood).</p> <p>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 paper and board). 4409—(Wood continuously shaped). 4417—(Tools, tool handles, broom handles). 4418—(Builders' joinery and carpentry of wood).</p>	<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood).</p> <p>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).</p> <p>Ch. 47 Headings (wood pulp)</p> <p>4701—(Mechanical wood pulp). 4702—(Chemical wood pulp, dissolving). 4703—(Chemical wood pulp, sulfite). 4704—(Chemical wood pulp, sulfite). 4705—(Combination mechanical and chemical).</p> <p>PLUS PHASE II</p>	<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood).</p> <p>4421—(Articles of wood, nesoi).</p> <p>Ch. 48 Headings (paper & articles of).</p> <p>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).</p> <p>Ch. 94 Headings (furniture, etc.).</p> <p>940169 (seats with woodenframes). 940330 (wooden office furniture). 940340 (wooden kitchen furniture). 940350 (wooden bedroom furniture). 940360 (other wooden furniture). 94039070 (wooden furniture parts).</p> <p>PLUS PHASES II & III.</p>

A printable declaration form is currently available on our website for voluntary submission at http://www.ngjensen.com/forms_us.php. 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.

Additional Information

Additional information regarding the Lacey Act amendments/plant declaration requirements is available on our website at: <http://www.ngjensen.com/laceyact.php>.

CBP's website also includes information regarding the Lacey Act amendments at: http://www.cbp.gov/xp/cgov/trade/trade_programs/cargo_summary/laws/food_energy/amended_lacey_act/.

To search for scientific names using a product's common name or by other means, visit the USDA website at: <http://plants.usda.gov/classification.html>.

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