

USDA Issues Revised Plan to Phase in Enforcement of Lacey Act Plant Declaration Requirement

The U.S. Department of Agriculture’s Animal and Plant Health Inspection Service (APHIS) has published a notice in the *Federal Register* that informs the public of the revised plan to phase in enforcement of the plant declaration requirement of the Lacey Act. The 2008 “Farm Bill” amended the Lacey Act to require importers to submit a declaration at the time of importation for certain plants and plant products. The declaration is required to contain several pieces of information, including the scientific name of the plant, the value of the importation, the quantity of the plant, and the name of the country from which the plant was harvested. Violations of the Lacey Act can be prosecuted either through civil or criminal penalties, or by forfeiture of the merchandise.

The current revision will affect phase III and phase IV of the enforcement schedule, and will not affect phases I and II already in effect. Phase III scheduled to begin on October 1, 2009 has been modified, but only by removing items from this phase. Phase IV scheduled to begin April 1, 2010 has been substantially revised. The revised phase-in schedule is described in the table below.

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

Phase II April 1, 2009	Phase III October 1, 2009	Phase IV April 1, 2010
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 4412—Plywood, veneered panels, except 44129906 and 44129957 4414—Wooden frames 4419—Tableware & kitchenware of wood 4420—Wood marquetry, caskets, statuettes PLUS PHASE II	HTS Chapters: Ch. 44 Headings (wood & articles of wood) 4421—Other articles of wood Ch. 66 Headings (umbrellas, walking sticks, riding crops) 6602—Walking sticks, whips, crops Ch. 82 Headings (tools, implements) 8201—Hand tools Ch. 92 Headings (musical instruments) 9201—Pianos 9202—Other stringed instruments Ch. 93 Headings (arms and ammunition) 9302—Revolvers and pistols 93051020—Parts and accessories for revolvers and pistols Ch. 94 Headings (furniture, etc.) 940169—Seats with wood frames Ch. 95 Headings (toys, games, & sporting equipment) 950420—Articles and accessories for billiards Ch. 97 Headings (works of art) 9703—Sculptures PLUS PHASES II & III

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* Declaration requirements were 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.

Phase IV lists headings that may not be composed of wood or plant products. The declaration is not required for products that have no wood or plant content. For example, both metal hammers and hammers with wooden handles are included in HTS chapter 82. However, only the hammer with the wooden handle would require the declaration when phase IV becomes effective.

In response to comments received contending that the identification of the genus and species of recycled or reused materials (e.g., medium density fiberboard, particleboard, and scrap wood) would be difficult, if not impossible, APHIS has decided to further delay enforcement of the declaration for such products. APHIS intends to begin enforcing the declaration for those products no earlier than September 1, 2010.

APHIS is seeking comments until November 2, 2009 on the following HTS chapters/subchapters currently under consideration for subsequent phases that would be scheduled to begin on or after September 1, 2010:

- Ch. 44 Headings (wood & articles of wood)
 - 4405—Wood wool [excelsior]
 - 4410—Particle board
 - 4411—Fiberboard of wood
 - 4412—Plywood, including 44129906 and 44129957
 - 4413—Densified wood
 - 4415—Packing cases, boxes, crates, drums
 - 4416—Casks, barrels, vats, tubs
- 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
- Ch. 92 Headings (musical instruments)
 - 9205—Wind musical instruments
- 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.
- Ch. 66 Headings (umbrellas, walking sticks, riding crops)
 - 6601—Umbrellas
 - 6603—Umbrella parts
- Ch. 94 Headings (furniture, etc.)
 - 9401—Seats
 - 940330—Wooden office furniture
 - 940340—Wooden kitchen furniture
 - 940350—Wooden bedroom furniture
 - 940360—Other wooden furniture
 - 940381—Furniture of cane, osier, bamboo, rattan, or similar materials
- Ch. 95 Headings (toys, games & sporting equipment)

APHIS is also considering the applicability of the declaration requirement to other products not included in the revised phase-in schedule or listed above. In particular, APHIS is seeking comments until November 2, 2009 on how the declaration requirement should be enforced on additional goods classified under the following HTS headings:

- Ch. 48 Paper & articles of
- Ch. 82 Tools, implements
- Ch. 89 Ships, boats & floating structures
- Ch. 93 Arms and ammunition
- Ch. 94 Furniture, etc.
- Ch. 95 Toys, games, & sporting equipment
- Ch. 96 Brooms, pencils, buttons

Instructions for submitting comments are included in the Federal Register notice, which can be viewed online at: <http://edocket.access.gpo.gov/2009/E9-21216.htm>.

Electronic filing of the plant declaration can be made via EDI through the NGJ Express software application, much the same way that many importers submit proforma invoices, etc. through NGJ Express. If you would like to see how these automated processes can ease your document preparation, please send an e-mail pesupport@ngjensen.com, or call your local NGJ account representative.

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