

Letter to Los Angeles Customs Brokers and Freight Forwarders Association Members regarding the Lacey Act

TO: LACBFFA Members

Hello:

Here is the latest on the Lacey Act. The bottom line first: work on implementing the Lacey Act amendments is progressing in a positive direction, but we are far from resolving all of the issues, many of which could require legislation in the new year. The PCC's input and support will be critical as we move forward.

Now the update: The interagency working group met yesterday with Capitol Hill staff, a select group of industry reps, and some members of the environmental community to discuss the Congressional guidance (i.e. the letter). While the interagency working group has responded "positively" to the Congressional letter, the USDA pointed out that an official response to the letter could take several weeks to finalize. I have attached the letter to this email if you would like to refresh your memory about what was included.

Here are some important points brought up during yesterday's meeting:

- While the interagency working group is generally supportive of the phased-in implementation approach described in the Congressional letter, the agencies do not believe the intent indicated in the letter matches the law.
- The interagency working group said they lack the authority to implement certain other aspects of the law identified in the letter, including specific exemptions.
- While the interagency working group remains concerned that phasing in the law by HTS Chapter subheadings (as opposed to phasing in the law by HTS Chapter) would be too difficult, there was some discussion about the possibility of creating an affirmative product list during the phase-in process that would indicate when the declaration requirement should be applied.
- The interagency working group was optimistic about creating an exhaustive list of genus and species that the trade community could reference, but the agencies are concerned that it would be difficult to create a database of foreign laws. Frankly, the government agencies do not want this responsibility since the information may be incomplete and parts could become outdated. The agencies suggested they may ask the trade to refer to certain NGO websites for this information.

It is also important to note that there is disagreement between industry reps and the environmental community about whether a non-wood product that has a wood component should be subject to the law's reporting requirements. Take an automobile with wood trim as an example; the environmental reps believe that the auto should be subject to the reporting requirements but the trade community wants the auto to be exempt. This may be an indication of the debate to come.

Again, it will take several weeks or more to resolve these and other issues associated with implementing the Lacey Act amendments. The fact that enforcement has been delayed until CBP can receive information electronically (but no earlier than April 1) has toned down some of the urgency that first existed several weeks ago.

Meanwhile, across the pond, the European Commission proposed new legislation October 17 to combat illegal logging that would require European timber importers to track the source of the lumber they import

into Europe. The scope of this proposal is not nearly as wide as the Lacey Act amendments passed by Congress; the EU proposals cover actual wood as well as wood flooring, wooden furniture, wooden frames and a few other select wood items. The Commission's proposal must be approved by the European Parliament.

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