

# THE LACEY ACT

Sec. 8204 requires that import declarations state the scientific name of any plant (including genus and species) used to produce the plant product and the country of origin of the plant. If the genus and species is not known, then the declaration must contain the name of every species of plant that may have been used to produce the plant product; and if the country from which the plant was taken and used to produce the imported plant product is unknown, the name of every country from which the plant may have been taken must be stated. Packaging material that supports, protects, or carries another item is exempted, unless the packaging material itself is the item being imported.

Sec. 8204 makes commerce in products made from illegally harvested or traded plants and plant products, including wood, a federal crime and is going to be enforced by the US Department of Justice. CBP has managed to get Congress to agree to a phased-in implementation schedule, but Congress has not approved the actual schedule.

Attached is a copy of a USDA Animal and Plant Health Inspection Service (APHIS) notice that is now in The Federal Register. The notice discusses USDA's plans for phased-in implementation of the Lacey Act amendments (details on the phase-in schedule are below).

There will be a 60-day comment period on the attached FR notice. The FR notice notes that CBP is currently developing an electronic system that will collect the remaining data required to be declared, and that they intend to begin enforcement of the declaration requirements upon completion of the electronic system (CBP anticipates completing the electronic system by April 1, 2009). Starting on December 15, and until April 1, USDA will make a paper declaration available for voluntary submission (Draft declaration form is attached).

The FR notice also notes that 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). That being said, any person who submits a form containing false information may be prosecuted.

## Proposed Phase-in Period

Phase I: From present - March 2009, the voluntary PPQ Plant Import Declaration Form will be available on Web site, and accepted after Dec. 15, 2008.

Phase II: On April 1, 2009 (or when electronic system is available), import declaration will be required for the following HTS Chapters:

- . 44 (wood & articles of wood) and.
- .6 (live trees, plants, bulbs, cut flowers, ornamental foliage, etc.)

Phase III: On July 1, 2009 (approximate), import declaration will be required for the

following HTS Chapters:

- . 47 (wood pulp)
- . 48 (paper & articles of)
- . 92 (musical instruments)
- . 94 (furniture)
- . Plus chapters included in Phase II

After September 30, 2009, agencies will phase in enforcement of the declaration requirements for additional chapters containing plants and plant products covered by the Lacey Act. A follow up FR notice will be published with this schedule. Products included in this stage include, but are not limited to HTS Chapters:

- . 12 (oil seeds, misc. grain, seed, fruit, plant, etc.)
- . 13 (gums, lacs, resins, vegetable saps, extracts, etc.)
- . 14 (vegetable plaiting materials and products not elsewhere specified or included)
- . 45 (cork and articles of)
- . 46 (basket ware and wickerwork)
- . 66 (umbrellas, walking sticks, riding crops)
- . 82 (tools)
- . 93 (guns)
- . 95 (toys, games and sporting equipment)
- . 96 (brooms, pencils, and buttons)
- . 97 (works of art)