



The Food, Conservation, and Energy Act of 2008 APHIS Lacey Act Declaration Phase IV Begins April 1, 2010

Dear Valued Customers:

The Lacey Act (16 USC 3371 et seq.) combats trafficking in “illegal” wildlife, fish, or plants. The Food, Conservation, and Energy Act of 2008 amended the Lacey Act by making it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce a broader range of plants, with some limited exceptions, taken or traded in violation of the laws of the U.S., a U.S. State, or other countries. It also made it unlawful to make or submit any false record, account or label for any false identification of, this broader group of plants covered by the Act. Finally, it introduced the requirement for an import declaration for plants entering the U.S. and provides for both civil and criminal penalties for failure to comply.

On September 2, 2009 the Animal and Plant Health Inspection Service (APHIS) of USDA published a notice in the Federal Register to inform the public of the Federal Government’s revised plan to phase in enforcement of the Lacey Act declaration requirement and other implementation plans.

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. The declaration requirements of the Lacey Act became effective on December 15, 2008, and enforcement of those requirements is being phased in.

To date, phases I through III have already been phased in. Please see our previous newsletters on the Lacey Act dated March 12, 2009 and September 8, 2009 for more details.

LACEY ACT PHASE IV BEGINS APRIL 1, 2010

Phase IV of APHIS enforcement schedule of the Lacey Act declaration will begin on April 1, 2010. In addition to the Lacey Act declaration requirement already in effect for articles covered under previous phases, phase IV expands enforcement to the following HTS subheadings in the listed chapters:

Ch. 44

4421 (other articles of wood)

Ch. 66

6602 (walking sticks, whips, crops)

Ch. 82

8201 (hand tools)

Ch. 92

9201 (pianos)

9202 (other stringed instruments)

Ch. 93

9302 (revolvers and pistols)

9305.10.20 (parts and accessories for same)

Ch. 94

9401.69 (seats with wood frames)

Ch. 95

9504.20 (articles and accessories for billiards)

Ch. 97

9703 (sculptures)

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LACEY ACT PHASED IMPLEMENTATION CHART

Phase II April 1, 2009	Phase III October 1, 2009	Phase IV April 1, 2010
<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood)</p> <ul style="list-style-type: none"> • 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). 	<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood)</p> <ul style="list-style-type: none"> • 4402—Wood charcoal • 4412—Plywood, veneered panels <ul style="list-style-type: none"> ◦ except 44129906 and 44129957 • 4414—Wooden frames • 4419—Tableware & kitchenware of wood • 4420—Wood marquetry, caskets, statuettes. <p>PLUS PHASE II</p>	<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood)</p> <ul style="list-style-type: none"> • 4421—Other articles of wood <p>Ch. 66 Headings (umbrellas, walking sticks, riding crops)</p> <ul style="list-style-type: none"> • 6602—Walking sticks, whips, crops <p>Ch. 82 Headings (tools, implements)</p> <ul style="list-style-type: none"> • 8201—Hand tools <p>Ch. 92 Headings (musical instruments)</p> <ul style="list-style-type: none"> • 9201—Pianos • 9202—Other stringed instruments <p>Ch. 93 Headings (arms and ammunition)</p> <ul style="list-style-type: none"> • 9302—Revolvers and pistols • 93051020—Parts and accessories for re-volvers and pistols <p>Ch. 94 Headings (furniture, etc.)</p> <ul style="list-style-type: none"> • 940169—Seats with wood frames <p>Ch. 95 Headings (toys, games, & sporting equipment)</p> <ul style="list-style-type: none"> • 950420—Articles and accessories for billiards <p>Ch. 97 Headings (works of art)</p> <ul style="list-style-type: none"> • 9703—Sculptures <p>PLUS PHASES II & III.</p>

* 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.

SUBSEQUENT ENFORCEMENT PHASES

APHIS is required to give six months advance notice for any new phase of its enforcement schedule for the Lacey Act Declaration. This means that if APHIS wanted to begin Phase V on October 1, 2010 as had been previously planned by the agency, an announcement would need to be made by approximately April 1 that lists the subheadings to be included in Phase V.

SUBHEADINGS BEING CONSIDERED FOR SUBSEQUENT ENFORCEMENT PHASE

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| <u>Ch. 44</u> | 4705 (combination mechanical and chemical) |
| 4405 (wood wool (excelsior)) | |
| 4410 (particle board) | <u>Ch. 48</u> |
| 4411 (fiberboard of wood) | 4801 (newsprint) |
| 4413 (densified wood) | 4802 (uncoated writing paper) |
| 4415 (packing cases, boxes, crates, | 4803 (toilet or facial tissue stock) |
| 4416 (casks, barrels, vats, tubs) | 4804 (uncoated kraft paper) |
| | 4805 (other uncoated paper and board) |
| <u>Ch. 47</u> | 4806 (vegetable parchment, etc.) |
| 4701 (mechanical wood pulp) | 4807 (composite paper and board) |
| 4702 (chemical wood pulp, dissolving) | 4808 (corrugated paper and board) |
| 4703 (chemical wood pulp, sulfate) | 4809 (carbon paper) |
| 4704 (chemical wood pulp, sulfite) | 4810 (coated paper and board) |



4811 (paper coated, etc.)

Ch. 66

6601 (umbrellas)

6603 (umbrella parts)

Ch. 92

9205 (wind musical instruments)

Ch. 94

9401 (seats)

9430.30 (wooden office furniture)

9403.40 (wooden kitchen furniture)

9403.50 (wooden bedroom furniture)

9403.60 (other wooden furniture)

9403.81 (furniture of cane, osier, bamboo, rattan, or similar materials)

Ch. 95

9504 (articles for arcade, table, or parlor games)

APHIS ALSO CONSIDERING REQUIRING DECLARATION FOR ADDITIONAL GOODS

In addition, APHIS was considering the applicability of the declaration requirement to additional goods classified under the following HTS Chapters:

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)

The PPQ 505 Lacey Act Declaration Form is available at the following link:

http://www.aphis.usda.gov/plant_health/lacey_act/index.shtml

If any additional products of yours will be subject to the Lacey Declaration for Phase IV beginning April 1, please be prepared to provide the information necessary to us in advance if you wish for us to make the declaration on your behalf.

We thank you very much for your time and should you require any assistance or if you have any questions, please consult with your local James J. Boyle & Co. office listed below.

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