



The Bottom Line

SEPTEMBER 2021 | VOL. 106

NEW LACEY ACT REQUIREMENTS START OCTOBER 1

Summary

On Oct. 1, entries for imports will see new requirements for the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), requiring transmission of a Lacey Act declaration or a valid disclaimer for products including new wooden pallets, containers or packaging that are NOT under load, some essential oils, additional musical instruments, oriented strand board, bi-pods and tripods, and trunks, cases, and suitcases.

Background

The Lacey Act of 1900, or simply the Lacey Act is a conservation law in the United States that prohibits trade in wildlife, fish, and plants that have been illegally taken, possessed, transported, or sold. Introduced into Congress by Representative John F. Lacey, an Iowa Republican, the Act was signed into law by President William McKinley on May 25, 1900. The law authorizes the Secretary of the Interior to aid in restoring game and birds in parts of the U.S. where they have become extinct or rare. Congress broadened the law to prohibit the import, export, transport, purchase, or sale of species when that action would violate state, federal, tribal, or foreign law. A 2008 amendment to the Farm Bill added coverage for timber and timber products. Various provisions of the Act are enforced by the U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, U.S. Customs and Border Protection, the Animal and Plant Health Inspection Service and the U.S. Forest Service.

Current Status

Phases 1, 2, and 3 went into effect in 2009; phase 4 in 2010; and phase 5 in 2015. On July 2, 2021, the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) published a notice in the Federal Register to announce the implementation of Phase Six of the Lacey Act enforcement schedule. Effective October 1, 2021, Phase Six will require a plant import declaration for additional products such as essential oils and wooden pallets that are imported into the United States. APHIS delayed implementation of Phase Six in fall 2020 in response to stakeholder concerns about operational and economic setbacks caused by the

COVID-19 pandemic. This action gave stakeholders additional time to recover from the impacts of the pandemic and to prepare for implementation of the requirement. With this requirement, the declaration must contain, among other things, the scientific name of the plant, value of importation, quantity of the plant, and name of the country from which the plant was taken.

Impact

You are required to file Lacey Act declaration for imported products listed on the Implementation Schedule that contain wood, composite wood material, such as medium- and high-density fiberboard, oriented strand board, particle board, and paper. Lacey Act information includes the genus and species of the plant material, the country where it was grown, and the amount (by weight or volume) of each plant material. After October 1, this will include new wood pallets and containers or packaging that are NOT under load.

APHIS created Special Use Designations (SUD) to provide some relief to trade when attempting to complete Lacey Act declarations for products that contain composite materials. If your product contains any of the composite materials listed under "Composite, Recycled, or Reused Plant Materials," you may use this SUD if you cannot identify the species after an exercise of due care. If you know the scientific names of a wood used to manufacture the composite article, do not use the SUD. The import declaration form must be filed electronically or in paper format by the importer, although as a practical matter, the information required by the form must be obtained from the product manufacturer or exporter.

RESOURCES

[Lacey Act of 1900](#) (Wikipedia)

[APHIS Announces Phase Six Lacey Act Enforcement Schedule Date of October 1, 2021](#) (U. S. Department of Agriculture)

[Do I Need a Lacey Act Declaration?](#) (U.S. Department of Agriculture)