Introduction

APHIS conducts activities related to the 2008 Farm Bill amendments to the Lacey Act, which prohibit the importation of any plants, with limited exceptions, that are taken or traded in violation of domestic or international laws. The Act requires a declaration for imported shipments of most plants or plant products. A 2012 study by the United Nations Environmental Programme estimated the value of illegal logging, including processing, to be between $30 to $100 billion dollars, or 10 to 30 percent of the global wood trade.

The Lacey Act amendments are designed to help combat this illegal logging by encouraging importers to research their supply chains and be aware of the laws governing products they purchase in other countries. APHIS’ role is to evaluate and implement existing regulations, provide guidance to importers regarding the required declaration, perform compliance checks, provide enforcement agencies with declaration information to assist their investigations, and maintain declaration records.
Lacey Act Declarations

In FY 2021, APHIS collected and managed nearly 1.1 million Lacey Act declarations electronically or on paper (the vast majority were received electronically through the Department of Homeland Security’s Customs and Border Protection’s (CBP) Automated Cargo Environment (ACE) system). Since implementing the 2008 amendments to the Lacey Act, APHIS has added products to the declaration requirement/enforcement schedule in five phases. On July 2, 2021, APHIS published a notice in the Federal Register with the effective date of October 1, 2021, for phase six, which expands the Lacey Act declaration requirement to items such as new wooden pallets and containers, essential oils, and certain musical instruments made of wood, among other items. APHIS originally announced phase 6 in the Federal Register on March 2020, with an effective data of October 1, 2020, but delayed the implementation date by a year to allow pallet producers and essential oil importers time to adjust practices as needed to be able to meet the Lacey Act requirements in response to concerns raised by industry representatives.

In FY 2021, APHIS continued issuing letters of noncompliance for importers whose declarations contain errors. This non-punitive outreach tool informs filers that there are likely errors in their declaration, that corrections should be made in future filings, that enforcement action could be taken on future filings, and provides contact information for questions or concerns. APHIS and its Federal partners (including other USDA agencies, CBP, U.S. Department of Justice, and the U.S. Fish and Wildlife Service) continued to expand and improve Lacey Act compliance programs by developing plans for and conducting documentation reviews of importers, continuing development of wood identification technologies and considering alternatives to seizing and forfeiting shipments due to the time and cost involved.
In FY 2020, APHIS received supplemental funding under the United States-Canada-Mexico trade agreement to carry out enforcement of the Lacey Act Amendments related to trade in plant and plant products between the United States and Mexico. In FY 2021, APHIS initiated the development of a modification to the U.S. Customs and Border Protections Automated Commercial Environment (ACE) to automatically reject certain inaccuracies provided by importers on their import documentation when submitting the scientific names of plants. ACE is the system through which the trade community reports imports and exports and the Government determines admissibility.

This action will correct both unintentional errors as well as what appear to be intentional errors. Program officials have noted over the last several years a pattern of errors related to declarations filed by certain brokers that import products from Mexico. With this modification, ACE will automatically reject these errors during the filing process, forcing the filer to correct the information to allow declaration submission. This will not only improve the quality of the declaration data but will also improve our efficiency in supporting data requests from our internal and external enforcement partners.