



United States Department of Agriculture

USDA APHIS Lacey Act Program

Frequently Asked Questions about Lacey

Customs and Border Protection

Automated Commercial Environment

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Lacey Act Program ACE FAQ’s Changes

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Person	Date	Change	Version
P. Bennett	8/1/19	Initial draft	1.0



Introduction

The Lacey Act Amendments of 2008, [16 U.S.C. §§ 3371-3378](#), requires importers of plant and plant products, including trees, provide certain information about the product be declared to the United States Government. The United States Department of Agriculture Animal and Plant Health Inspection Service (APHIS) Lacey Act Program is the entity which collects that information.

The Lacey Act Program accepts declarations from several paths allowing importers a variety of methods of meeting the requirements of the Act. The primary method importers use in declaring the products is through the United States Department of Homeland Security Customs and Border Protection (CBP) Automated Commercial Environment (ACE).

The Lacey Act Program Frequently Asked Questions of Lacey declaration filings in ACE answers many of the questions we are asked. When you have questions which are not answered here please contact us.

Filing Lacey Declaration in the Customs and Border Protection Automated Commercial Environment

What is ACE?

The [Customs and Border Protection \(CBP\) Automated Commercial Environment \(ACE\)](#) is the computer system through which the trade community reports imports and exports and the government determines admissibility.

Importers who are required to file a Lacey Act declaration use ACE to provide the necessary import data to the Lacey Act program.

Do I have to file a Lacey Act declaration?

If you are importing a product with any of the [HTS codes enforced by the Lacey Act Program](#) you are required to file a declaration, even if only to declare that the product does not contain plant material.

One of CBP's criteria for determining the type of information required to enter imported products is value. If the value of the entry is under \$2,500, CBP may determine that it is an informal entry which does not require a Lacey Act declaration. You will need to contact CBP for more information about other criteria determining an informal or formal entry.

HTS code flagging is the automated method used by ACE to determine if an agency, such as the APHIS Lacey Act Program, requires an importer to use the agency message set to send information to the agency. You can request from CBP the flag used for any HTS code.



Do I have to file the Lacey Act declaration in ACE?

If you are required to file a Lacey Act declaration (see the [Lacey Act HTS enforcement schedule](#)), it does not have to be in ACE. Electronic filing options are ACE or APHIS' [Lacey Act Web Governance System \(LAWGS\)](#).

If you file your customs entry information in ACE, but choose not to file the declaration information in ACE, you still are required to enter a minimum of two Lacey PGA records in ACE to inform the Lacey Act Program of your intent to submit the declaration information via another option (LAWGS or paper) or that the product does not require submission of a declaration by using a Lacey Act disclaim code.

Does the declaration requirement apply to all entry types?

The Lacey Act Program enforces the declaration requirement for formal entries (i.e., most commercial shipments). At this time, The Lacey Act Program does not require a declaration for informal entries (i.e., most personal shipments), personal importations, or mail, transportation and exportation entries, in-transit movements, carnet importations (i.e., merchandise or equipment that will be re-exported within a year). See the [APHIS Lacey Act website](#) for a list of the entry types which require a Lacey declaration.

How do I file declaration information in ACE?

If you are new to importing products into the United States, we suggest you seek assistance from a customs broker, a CBP Client Representative and/or a trade association specializing in the importation of your type of products. Also, [CBP's website](#) provides valuable information about the import process including extensive documentation and instructions on filing in ACE. Also, we suggest a review of the information in [APHIS' Lacey Act website](#).

If you are an experienced importer and have not filed a Lacey Act declaration before, ensure that your or your broker's Automated Broker Interface (ABI) software is current for filing Lacey Act declarations and that you are familiar with the Lacey Act declaration requirements.

For more technical guidance to better understand the requirements of CBP's and APHIS' Lacey Act message sets (i.e., required data sets) in ACE, we suggest the following documents:

- CBP's CBP And Trade Automated Interface Requirements ([CATAIR](#))
- Lacey Act [Implementation Guide \(IG\) Message Set](#)

Are there any examples on how I may complete the declaration information in the ACE?

The Lacey IG has a corresponding set of examples. You can find those on the [CBP ACE CATAIR PGA Message Set](#) page or on the [Lacey Act Program website](#). The samples are simple examples to demonstrate the use of the Lacey PGA message set in basic entries.



How do I learn of changes to the Lacey Act an IG Message Set?

APHIS will provide the latest information regarding changes to the Lacey Act IG on our [Website](#) and via APHIS Stakeholder Registry notices. Register to receive the notices by email at <https://public.govdelivery.com/accounts/USDAAPHIS/subscriber/new> and select “Lacey Act” as a topic of interest.

All changes to the Lacey Act IG are documented in CBP’s [Cargo Systems Messaging Service](#) (CSMS).

How frequently do you update the Lacey Act implementation guide?

The Lacey IG is infrequently changed. Changes are to match a change in ACE, agency requirements or a change that is requested by trade and approved by the Lacey Act Program.

Does the Trade Support Network review changes?

When there is a major change to the Lacey IG, CBP and the Lacey Act program may bring the TSN into action to review the changes. Suggestions from the TSN are considered in the final draft of the Lacey IG. The activation of the Lacey TSN will be done through CBP.

At what phase in CBP’s entry process am I permitted to file the Lacey Act declaration?

When you file your entry in ACE you can file the Lacey Act declaration either in Cargo Release or with your Entry Summary 7501.

Why are only importers of record allowed to file a Lacey Act declaration? Who is responsible for the truthfulness and accuracy of the declaration information filed in ACE?

Only “Importers of Record”, as defined by CBP, or their customs brokers (with power of attorney) may file Lacey Act declarations in ACE. Similar to the requirement to sign a paper declaration form ([PPQ Form 505](#)) in order to attest the information provided “is true and correct”, filers in ACE must do the same electronically. The Lacey Act message set in ACE requires all filers to identify who is making the certification statement, their role (i.e., importer or broker), and their contact information. It is important that the filer of the declaration in ACE understand that they must indicate who is authorized and willing to make the certification on behalf of the importing individual or company. (See PG 19, 20, 21 and 22 in the Lacey Act IG.)



What happens to my Lacey Act declaration after it is filed?

The data is transferred securely from the CBP ACE system to the Lacey Act Program database for compliance and analytic purposes. The final disposition is regulated by the USDA and National Archives.

Who can see my Lacey Act declaration?

Access to the Lacey Act Program database is limited to the Lacey Act Program personnel.

Under U.S. law certain information in the control of the government is by law publicly available through various channels. The U.S. Government has not made a formal decision on whether Lacey Act declaration information will be made publicly available outside of formal legal processes such as Freedom of Information Act (FOIA) requests. It is likely that at least some of the information will be made available to interested parties. Under existing legal frameworks, it is anticipated that any information provided to third parties will not contain identifying information for the importer, exporter, or consignee

What is the HTS code of my product?

The Lacey Act Program cannot tell you what the HTS code of your product is. Consult the [Harmonized Tariff Schedule](#) for more information.

One or more components of my merchandise would require a declaration, but the finished product does not fall within HTS Chapters which are listed in the Implementation Schedule. Do I need to declare my merchandise?

At this time, we are enforcing the requirement of the plant import declaration only for those subchapters of HTS Chapters that appear in the implementation schedule published on the APHIS Lacey Act Program website. The declaration requirement is based on the HTS code of the complete product being imported and not its component parts. If your product does not fall on the implementation schedule, you do not have to submit a declaration. However, you must still exercise due care to ensure that the plant(s) or plant product(s) you are importing were legally harvested.

How to

How do I change my Lacey Act declaration?

There are several methods to change your declaration, each depending on where the entry is in the ACE process. You will need to follow the instructions in the [CBP ACE CATAIR](#) to ensure you are in CBP compliance.

- If you have filed the Cargo Release, SE, you can follow CBP ACE Cargo Release for complete information about changing your CBP entry, or you can use the CA/CC PGA record change to change the Lacey information, again you need to follow the guidance in that process.



- If you have filed Entry Summary 7501 you will need to follow the CBP ACE Entry Summary information for Post Summary Corrections (PSC).
- Lacey does not support Reconciliation.
- Lacey does not provide a method to change PGA record entries which have been filed and accepted in ACE and stored in the Lacey database.

I have not received the “May Proceed” from Lacey Act Program, what do I do?

If you have not received the SO70 or May Proceed from Lacey Act Program and there is no rejection you should contact your CBP Client Representative. Due to ACE processing paths, Lacey Act Program does not have the ability to view your entry until it has completed in ACE and transferred to the Lacey Act database.

My entry was rejected, what do I do?

1. Review the entry for spelling errors or missing records, these are the most common problems with rejected entries.
2. Create a copy of the entry and a copy of the rejection for use in troubleshooting by CBP and Lacey Act Program
3. Contact your CBP client representative
4. Contact Lacey Act Program specialist

Will shipments be refused entry if the information required in the declarations is not known and not provided?

Shipments not in compliance with the law may be refused entry. Such enforcement decisions are made on a case-by-case basis, as with any other Customs entry requirement violation.

I am importing wood products to sell on Amazon (as an example), what do I need to do?

You will need to comply with the CBP rules and regulations for importing goods. CBP website has a page for [importing and exporting](#).

If the product has an HTS code that the Lacey Act Program enforces you will need to file a Lacey Act declaration.

A Foreign entity may be permitted to import products using the Lacey Act message set, you will need to follow the applicable laws and regulations regarding importing good in to the U.S.

What is the difference in the disclaim codes?

The disclaim codes are used to inform Lacey of why you are not filing a full Lacey Act declaration using the ACE Lacey message set. The first two codes, “A” and “B”, are provided to accommodate products that may be common cultivar or food crops, or might not be wood, HTS 9703 Sculptures as an example might be made of stone or wood, if of stone then disclaim code “A” is used. If by a policy of the Lacey Act Program, a declaration is not to be filed, such as certain FTZ products placed in the zone prior to November 28, 2016, then a disclaim code “B” is used. The next two disclaim codes are to inform Lacey Act Program that instead of filing the complete declaration in ACE, you



will be filing in either APHIS LAWGS or by using the paper PPQ Form 505 and mailed in to Lacey Act Program.

Is there an exemption to the Lacey Act declaration requirement for scientific specimens?

For the purposes of the Lacey Act Program, scientific specimens of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that are to be used only for laboratory or field research are excluded from the definition of “plant”, use Disclaim “A”, unless they are listed in an appendix to CITES, as an endangered or threatened species under the Endangered Species Act, or pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction, you need to file a complete Lacey declaration.

Where can I find scientific names for plants?

You are required by the Lacey Act Program to provide the scientific name (genus and species) of the products being imported. Common names are not allowed, and if used, subject to compliance actions.

The following websites may be useful to look up the scientific names of plants:

GRIN Taxonomy - http://www.ars-grin.gov/cgi-bin/npgs/html/tax_search.pl

USDA Plants website - <http://plants.usda.gov>

The Integrated Taxonomic Information System - <http://www.itis.gov/>

The International Plant Names Index - <http://www.ipni.org/>

What is meant by country of harvest of the Lacey Act declaration?

The country of harvest is the country where the original source material was grown, and cut down, picked, or otherwise removed (i.e., harvested). This may not be the same country that subsequently processed or is exporting the material. This may be different than the country of origin which you provide to CBP of the finished product.

Is there a *de minimis* exception to the Lacey Act declaration requirement?

APHIS developed a *de minimis* proposal that would establish limited exceptions to the Lacey Act declaration requirement for entries of products containing minimal plant material. This would relieve the burden on importers while ensuring that the declaration requirement continues to fulfill the purposes of the Lacey Act. On July 7, 2018, APHIS published the [de minimis proposed rule](#) in the Federal Register to provide the public with the opportunity to provide comments. We received 11 comments. We are currently reviewing the comments and drafting a final rule. Our target date for publication of the final rule is December 2019.



What is the difference between PG04 and PG29?

The prime difference between the two records is PG04 assigns the quantity to the PG05-PG06 pairs under it while PG29 divides the quantity among the PG05-PG06 pairs. The second difference is that PG29 is limited to certain HTS codes, see the Lacey message set for the list of the HTS codes. PG04 can be used for all HTS codes.

What are Special Use Designators?

The [Special Use Designators \(SUD\)](#) Special Use Designations were created by APHIS to provide relief for the trade community when filing Lacey Act declarations for specific types of plant products. The specific types of products are categorized below:

(1) plant products that may be categorized by genus or species into common trade groups; and, (2) plant products containing composite, recycled, reused or reclaimed materials; and, (3) plant products that were manufactured prior to the passage of the Lacey Act Amendments of 2008.

If your product fits the description of an SUD you have the option of using it when filing the Lacey Act declaration; however, it is not required. If you know the scientific names and country of harvest of a wood used in a composite product, you do not need to use the SPECIAL COMPOSITE SUD.

I am importing a bamboo product, such as straws or chop sticks, why do I have to file a Lacey Act declaration?

The Lacey Act Amendments of 2008 require a Lacey Act declaration on all plant products except for common cultivars and food crops. If your product is of wild bamboo, you will need to file a declaration. If it is from common cultivars or cultivated stands of bamboo, then you can use disclaim code “A”.

I am importing CITES regulated material that already has proper CITES documentation, do I need to declare?

At this time, all formal entries of plants and plant products (including CITES regulated material) that are enforced by the Lacey Act Program must be declared.

Does plywood count as a “Composite Product” for the purposes of the Lacey Act declaration?

Plywood and products made from plies of wood are not considered composite products for use of the Special Use Designation “SPECIAL COMPOSITE” and must be declared normally. The “SPECIAL COMPOSITE” Designation is only for products where the small fibers of more than one kind of plant have been mechanically processed, mixed and chemically bonded together (e.g. Medium Density Fiberboard (MDF), High Density Fiberboard (HDF), Oriented Strand Board (OSB), Particle Board, Paper, Paperboard, and Cardboard.). Thin plies or layers of solid wood do not meet this requirement. However, if a piece of plywood has a Particleboard core, that core is considered a composite material



and the filer may use the Guidance on Special Use Designations. The other plies in this example must be declared normally.

Will the Lacey Act Program file my declaration for me?

The Lacey Act Program does not act as a broker for you. To file in ACE you will need to file the Lacey Act declaration using CBP certified software which customs brokers use. Your express shipper may also act as a broker.

Why cannot I file my paper Lacey Act declaration using CBP ACE Digital Image System?

The Lacey Act Program does not accept filing the PPQ Form 505 through the CBP ACE Digital Image system. DIS does not allow for delivering an original and signed document to the Lacey Act Program.

Do I need a permit if I file the Lacey declaration?

The Lacey Act declaration fulfills the requirement of the Lacey Act. Requirements for permits, CITES permits, phytosanitary certificates or any other documentation will need to be discussed with other departments or agencies. We suggest starting with the [PCIT/LAWGS help desk](#).

Foreign Trade Zone Entries

How do I file FTZ entries?

The Lacey Act Program accepts [entry type 06](#) entries filed in cargo release, SE, or entry summary 7501. Lacey Act declarations for FTZ entry are also accepted using [LAWGS](#).

ACE and LAWGS

Why are the APHIS LAWGS and CBP ACE Lacey Act message set different?

The two systems were developed by different agencies to collect the required Lacey Act declarations. Both contain the same required information, but the formatting is different.

APHIS LAWGS

- You must enter all the data for your entry
- XML files are accepted in this program. Lacey Act Program created the format of the data based on the original PPQ Form 505. Certain fields are limited to drop down lists, such as the accepted HTS codes and scientific names.

CBP ACE

- You enter your CBP information in ACE, and a portion of that information can be used by Lacey Act Program as a way of reducing duplicate data entry by you under the One Window vision. The Lacey declaration data that is not collected from the ACE data is entered by you using the Lacey message set. The format of the data is set by CBP ACE which is not the same as the APHIS LAWGS formatting.

Can I file only in LAWGS?

You may file the required Lacey Act declaration in LAWGS but you are required to use ACE to file your customs information and the first two records, PGOI and PG01,



including the disclaim code “C”, of the Lacey Act message set to inform Lacey Act Program that you are filing in LAWGS. You will also need the entry number from ACE for LAWGS.

[I filed my Lacey Act declaration in LAWGS, can I update it in ACE?](#)

No. If the entry has not yet been released from the port, and the entry summary 7501 has not been submitted to CBP ACE, you can request a change to the declaration in LAWGS. You will need to contact the Lacey Act Program specialist for instructions on submitting a request for changing submitted information.

[I filed my Lacey Act declaration in ACE, can I mail a PPQ Form 505 to change it?](#)

You will need to go back in to ACE to make your changes. Lacey Act Program accepts filing a corrected CBP cargo release, SE or CA/CC PGA record changes in ACE. Do not file a change in LAWGS or on the PPQ Form 505. If you have filed your entry summary 7501, you can use that to update your Lacey Act declaration. If you are trying to change your Lacey Act data after entry summary and you are not filing a corrected entry summary or post summary correction 7501 you will need to contact the Lacey Act program for more information.

Contact Information

Please submit questions regarding Lacey Act declaration requirements to the following email address: lacey.act.declaration@usda.gov

The [APHIS PCIT LAWGS](#) Help Desk is open 8am to 5pm Eastern Time, Monday through Friday, except for Federal holidays.

Phone: 1-866-HLP-PCIT (1-866-457-7248)

E-mail: pcithelpdesk@aphis.usda.gov