

LACEY ACT

PLANT AND PLANT PRODUCT DECLARATION

SPECIAL USE CODES

Comments received in response to Federal Register notices have raised several issues regarding efficient and accurate completion of the Plant and Plant Product Declaration Form known as PPQ505. The issues currently fall into three categories: (1) the possible use of shorthand for common trade groupings of species; (2) the possible difficulties involving in identifying composite, recycled, reused or reclaimed materials to the genus and/or species level; and, (3) the difficulty in identifying the genus and species for certain articles manufactured prior to the passage of the Lacey Act Amendments.

APHIS has compiled the following chart of Special Use Codes to address these issues. We also provide an explanation of each of these Special Use Codes in the text following the chart.

Issue	Genus Code	Species Code
Species groupings¹		
SPF	Special	SPF
Composite, Recycled, or Reused Plant Materials²		
MDF (Medium Density Fiberboard)	Special	MDF
Particle Board	Special	Particleboard
Paper/Paperboard	Special	Paper
Recycled	Special	Recycled
Reused	Special	Reused
Reclaimed	Special	Recycled
Other Special Cases³		
Manufactured Prior to May 22, 2008 - Sourcing of Pre-Amendment Materials Untraceable Despite Due Diligence	Special	PreAmendment
No Plant Material Present	Special	None

The Country of Harvest will be known for many such entries and, if so, must be provided. If circumstances associated with the product in question are such that the country of harvest is unknown, each country of from which the plant material may have been taken must be listed. See 16 U.S.C. §3372(f)(2)(B). However, if this list would include more than 10 countries, a Special Use Code of “**” (two asterisks) may be used.

The proper use of a species grouping code in a PPQ505 fulfills the requirements of the Lacey Act regarding the declaration of genus and species. A declaration in which a species group code is used to identify genus and species must, of course, include all other information required by the Lacey Act.

Provided that the other Special Use Codes listed above are properly (truthfully, accurately, completely, and appropriately pursuant to this guidance) used in a PPQ505 that is otherwise in compliance with the requirements of the Lacey Act, APHIS will not refer for prosecution or take any other enforcement action as to such a PPQ505 filed while this guidance is in effect, based on any failure to provide genus, species or country of harvest information as set forth in the Lacey Act amendments.

1. Species Groupings

The amended Lacey Act explicitly states that the import declaration must contain both the genus and the species of the imported plant material. 16 U.S.C. § 3372(f)(1)(A). It further requires that if the species of plant used to produce the product that is the subject of the importation varies, and the species used to produce the plant is unknown, the declaration shall contain a list of each species of plant that may have been used to produce the plant product. 16 U.S.C. § 3372(f)(2)(A).

APHIS understands that some products are commonly traded under shorthand names that stand for a specific collection of species of plants. It has been recommended in comments provided to notices that APHIS has published in the Federal Register that APHIS develop a list of shorthand designations that would satisfy the requirement to provide detailed genus and species information for such common nomenclature groups on each PPQ505. The shorthand designations would stand for a specific list of species, thus satisfying the declaration requirement more efficiently.

APHIS to date has identified just one such species grouping: SPF (Spruce, Pine, Fir). SPF is a common grade of lumber manufactured from varying proportions of spruce, pine or fir species. SPF imports are a combination of several distinct species, but identifying the particular species in any individual shipment would be difficult, costly, and/or time consuming. The SPF species grouping includes:

- *Abies amabilis*
- *Abies balsamea*
- *Abies concolor*
- *Abies grandis*
- *Abies lasiocarpa*
- *Abies procera*
- *Larix laricina*
- *Larix occidentalis*
- *Picea engelmannii*
- *Picea glauca*
- *Picea mariana*
- *Picea rubens*
- *Pinus banksiana*
- *Pinus contorta*

For such shipments of SPF, the importer may declare the genus as “Special” and the species as “SPF” to represent that the specific species are unknown but the SPF species grouping represents all possible species that may be present in the product. However, if a species of wood contained in the shipment does not fall under the species grouping list above, the SPF grouping may not be used in the declaration to identify the genus and species of plant or plant product being imported.

APHIS would welcome information from interested parties that would support the creation of additional such Species Groupings.

2. Composite, Recycled, Reused or Reclaimed Materials

Beginning October 1, 2009, APHIS began enforcement of the declaration requirements for goods in certain Harmonized Tariff Schedule chapters that include some products that are composed in whole or in part of composite materials, such as medium density fiberboard, particle board, or paperboard; or recycled, reused, or reclaimed (including driftwood) materials. Importers of such materials may have difficulty identifying in their Lacey Act declarations the genus, species, and country of harvest of all plants in the products they are importing. If an importer of such materials is unable through the exercise of due care to determine the genus, species, and/or country of harvest of such materials, the importer should use the applicable Special Use Code set forth above. By using the Special Use Code, the importer is representing that it is not possible through the exercise of due care to determine the genus, species, and/or country of harvest of such materials. If a product is not composed entirely of composite, recycled, reused or reclaimed materials, the importer must indicate the genus, species and country of harvest for all other product components.

3. Other Special Cases

A. Items Manufactured Prior to May 22, 2008

In a limited number of situations, items presently on the declaration enforcement schedule may be manufactured in whole or in part prior to the effective date of the Lacey Act Amendments. The manufacturer, prior to the Lacey Act Amendments, may not have tracked the sources or species of its raw materials. It may be impossible to trace back those sources after the fact. If an importer of such items manufactured prior to May 22, 2008, is unable through the exercise of due care to determine the genus, species and/or country of harvest of the plant materials contained in that item, the importer should use the applicable code set forth above. By using the Special Use Code, the importer is representing that it is not possible through the exercise of due care to determine the genus, species and/or country of harvest of such materials. If a product is not manufactured entirely prior to May 22, 2008, the importer must indicate the genus, species and country of harvest for all product components manufactured after that date.

B. No Plant Material Present

As APHIS stated in the September 2, 2009 Federal Register Notice, the Lacey Act does not require that importers file a Plant and Plant Product Declaration for any shipment containing

zero (0) plant material, even if the shipment contains goods in one of the HTS chapters for which enforcement of the declaration requirement has commenced. For example, both metal hammers and hammers with wooden handles are included in HTS Chapter 82. However, declarations only need to be filed for hammers with wooden handles. Notwithstanding that guidance, we have been informed that some customs brokers have required importers of goods in one of the HTS chapters for which enforcement of the declaration requirement has commenced to file a Lacey Act declaration even if the goods contain no plant material. Since filing a Lacey Act declaration is unnecessary for goods containing no plant material, importers facing such a demand from brokers should refer the broker to this guidance. However, if for some unforeseen, reason the broker still requires the importer to submit a declaration for goods containing no plant material, APHIS has provided the above Special Use Code. This situation should not be common, and should only be used as needed.