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# Lacey Act Declaration De Minimis Exception

Last Modified:

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) established an exception to the Lacey Act import declaration requirements for products containing a minimal, or "de minimis," amount of plant material.

The Lacey Act—which combats trafficking in illegally taken wildlife, fish, or plants—requires importers to prepare an import declaration for certain plants and plant products. The import declaration must include the scientific name of the plant, value of the importation, quantity of the plant, and name of the country where the plant was harvested. However, the Lacey Act does not address whether declaration requirements are necessary for otherwise non-plant products that contain a minimal amount of plant material, such as wooden buttons on a shirt.

## The De Minimis Exception

To address this, APHIS published a proposed rule on July 9, 2018 inviting public comments on two options for a de minimis exception to the declaration requirement for products that contain less than a certain amount of plant material. The first option would adopt an exception for products containing plant material that constitutes no more than 5 percent of the total weight of the individual product unit,

provided that the total weight of plant material does not exceed 2.9 kilograms (6.93 pounds). The second option would adopt an exception for products containing plant material that constitutes no more than 5 percent of the total weight of the individual product, provided that the total weight does not exceed a designated amount of plant material by weight or board feet.

After reviewing all comments received, APHIS decided to adopt an option based on weight: a threshold of no more than 5 percent of the total weight of the individual product unit, provided that the total weight of the plant material in an entry of products in the same 10-digit provision of the U.S. Harmonized Tariff Schedule does not exceed 2.9 kilograms. This exception ensures that the declaration requirement fulfills the intent of the Lacey Act while reducing the regulatory burden on importers. The exception does not apply to protected plant species.

The rule went into effect on **April 1, 2020**.

- [Lacey Act Implementation Plan: De Minimis Exception](#) [Final Rule]

Filers can begin using the de minimis exception once the disclaimer code is established in the U.S. Customs and Border Protection's (CBP) Automated Commercial Environment (ACE). APHIS will notify stakeholders when the exception is available in ACE.

APHIS' Lacey Act de minimis exception is not related to CBP's de minimis exemption, which is based solely on a shipment's value.

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