Frequently Asked Questions About Lacey Act Declaration Requirements

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Find answers to common questions about Lacey Act declaration requirements. This page covers a wide range of topics, including Phase VII implementation, disclaiming products, revising a declaration, and more.

New to the Lacey Act? Learn what kinds of products require a declaration and how to file.

Filing a Lacey Act Declaration

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What is Phase VII implementation, and what does it mean for importers?

In this new phase, Lacey Act declarations will be required for all remaining plant product Harmonized Tariff Schedule (HTS) codes that are not 100-percent composite materials.

Phase VII includes a wide variety of materials and plant products, such as furniture, cork, sporting goods, and some essential oils that have not yet required a declaration. Importers should become familiar with their supply chain and review what information you'll need to file a declaration.

Do you have a list of HTS codes that will be included in Phase VII?

All codes that are currently part of the Implementation Schedule, including Phase VII codes, have been uploaded on our website at Lacey Act Declaration Implementation Schedule.

Is there training available to teach me how to file a Lacey Act Import Declaration?

Yes. The International Wood Products Association has created both in-person and online training on Lacey Act topics for a fee to non-members of their organization. To learn more and register for the Lacey Act courses available, visit Lacey Act Compliance Training.

All components of my product are made with composite plant material. Do I need to fill out a declaration?

Yes, unless otherwise exempted. For composite plant materials, you can submit the species and country of harvest if known through the result of due care. If you cannot determine the species contained in the composite product, you may use the Special Use Designation (SUD) for composite materials in place of genus and species on the declaration.

More information about how to use SUDs can be found at Special Use Designations.

What are composite materials?

Composite materials are plant products and plant-based components of products where the original plant material is mechanically or chemically broken down and subsequently re-composed or used as an extract in a manufacturing process. Examples of composite materials could include paper, paperboard, particleboard, and medium- and high-density fiberboard (MDF and HDF).

Can I submit a blanket declaration?

You cannot submit a blanket declaration.

Do I need to submit supply chain documentation with my declaration?

The 2008 Lacey Act amendments do not impose any additional paperwork or reporting requirements beyond the import declaration.

However, those responsible for transporting, purchasing, and processing regulated plant products entering the United States should know their supply chain. The Lacey Act requires, in an exercise of due care, that you know the plants or plant products were not taken, possessed, transported, or sold in violation of the Act or in a manner unlawful under any underlying law, treaty, or regulation. Those who either knowingly or unknowingly accept illegally taken and transported plant products, including timber, may be subject to penalties for violating the 2008 Lacey Act amendment.

How will APHIS use the data from my declaration?

APHIS collects, stores, and reviews declaration data to ensure compliance with the 2008 amendment of the Lacey Act. We may also use the data to track national import activities and anticipate future market trends. We may share the data with

other government agencies to assist in enforcing the Lacey Act.

To learn more, view the Lacey Act Declaration Information Systems, System of Records Notice.

Disclaiming Products

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How can I disclaim products that are excluded from the Lacey Act declaration requirements or that I already filed for via LAWGS or paper?

If you are filing customs information in the Automated Commercial Environment (ACE), you can use a disclaimer code when prompted to file a Lacey Act declaration for a product that is excluded from the declaration requirements or that you already filed a declaration for through the Lacey Act Web Governance System (LAWGS) or paper. Select the appropriate disclaim option in the APHIS Lacey Act Message Set:

A. Not Regulated: This disclaimer code is used to indicate that the Lacey Act information is not required because the product is not regulated under the 2008 amendments to the Lacey Act or it is exempt under the Act. This includes products that are common cultivars, common food crops, scientific specimens, and plants intended for planting, and products containing zero (0) plant material. Protected plant species are not part of these exemptions.

B. Not Required: This disclaimer code is used to indicate that the Lacey Act information is not required because the product has been identified in APHIS policy as not requiring a Lacey Act declaration.

C. Filed Through Other System: This disclaimer code is used to indicate that the filer has already submitted the required Lacey Act information directly to APHIS using the Lacey Act Web Governance System (LAWGS).

D. Filed Through Paper Submission: This disclaimer code is used to indicate that the filer has already submitted the required Lacey Act information directly to APHIS

using the Lacey Act Plant and Plant Product Declaration (PPQ Form 505 (465.19 KB)/ 505b (269.8 KB)) paper form.

G. De minimis: This disclaimer code is used to indicate that the HTS line is claimed as de minimis for products containing plant material that represents 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 such products (at the CBP line level, single HTS code) does not exceed 2.9 kilograms.

How do I disclaim wooden products in HTSUS 4415 that are used exclusively as packaging material to support, protect, or carry another item?

The Lacey Act does not apply to plant products used exclusively as packaging material to support, protect, or carry another item, unless the packaging material itself is the item being imported. However, when filing import documents in ACE for any products in tariff provision 4415, the Lacey message set will prompt you to file a declaration. For these products, you can apply disclaimer code “A” to fulfill the Lacey message set requirements.

How do I disclaim used, recycled, and reclaimed wooden products in HTSUS 4415 that do not require a Lacey declaration?

APHIS does not require importers to file a Lacey import declaration for used, recycled, or reclaimed wooden products in tariff provision 4415. However, when filing import documents in ACE for any products in tariff provision 4415, the Lacey message set will prompt you to file a declaration. For these products, you can apply disclaimer code “B” to fulfill the Lacey message set requirements.

APHIS Lacey message set application of disclaimers for products in Harmonized Tariff Schedule 4415

Data not provided because:	Data Element: Disclaimer Code
Plant products used exclusively as packaging material to support, protect, or carry another item. For example, this would apply to a wooden pallet that is being used to carry 200 cases of shoes. This does not apply when the packaging material itself is the item being imported into the United States.	Apply “A” – Product not regulated by Animal and Plant Health Inspection Service (APHIS)
Used, recycled, or reclaimed packaging material, whether empty or under load, that are used to carry goods imported into the United States.	Apply “B” – Data is not required per agency guidance.

What is the difference between disclaimer codes and special use designations?

Importers can use disclaimer codes for products when the APHIS Lacey message set flags the tariff codes, but the product does not require an ACE filing of the Lacey Act declaration data. This includes products that are not regulated by APHIS, not required per APHIS guidance, already filed through LAWGS or paper method, or for de minimis exemptions.

Importers can use special use designations (SUD) to provide descriptions of the plant material in products that require a Lacey declaration. They can use the applicable SUD when it is not possible to provide the scientific names (genus/species). The proper use of a SUD in a Lacey Act declaration fulfills the requirements of the Lacey Act for the declaration of the scientific names. A declaration that uses a SUD to identify the scientific names must include all other information required by the Lacey Act.

What is the difference between the Lacey Act De Minimis criteria and CBP De Minimis?

The difference is that the Lacey Act De Minimis criteria is based on the amount of plant material in the product whereas CBP De Minimis is based on the value of the shipment. For Lacey Act De Minimis, products containing a minimal, or “de minimis,” amount of plant material are excepted from the declaration requirement and may use Disclaim Code G. For CBP De Minimis, Section 321, 19 USC 1321 provides admission of articles free of duty and of any tax imposed on or by reason of importation, but the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from the payment of duty shall not exceed $800.

Infographic: Does My Entry Qualify for the Lacey Act De Minimis Exemption? (131.73 KB)

To learn more about the Lacey Act De Minimis criteria, visit Lacey Act Declaration Requirements.

To learn more about CBP De Minimis and section 321 programs, visit Section 321 Programs | U.S. Customs and Border Protection.

Foreign Trade Zones

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When will Lacey declaration data be required for foreign trade zone (FTZ) shipments?

An importer may file the declaration when entering the trade zone before transformation or upon exiting the FTZ when the finished product enters U.S. commerce.

How will I know if my shipment is subject to a Lacey Act declaration when admitted into the FTZ?

Check the most recent list of Harmonized Tariff Schedule (HTS) codes subject to a declaration listed in the schedule of enforcement.

If your product is listed, then it is subject to the Lacey Act declaration requirement unless otherwise exempted.

How do I submit APHIS Lacey data for shipments admitted into the FTZ?

At least 5 days before entry, email APHIS at lacey.act.declaration@usda.gov to request an 11-digit alphanumeric serial number to list in the “entry number field” in the APHIS Lacey Act Web Governance System (LAWGS). We will assign a block of numbers to the importer or designated authorized filer for submitting Lacey data via LAWGS at the time of admission into the FTZ.

This step is **mandatory** for successful completion and submission.

Filers must follow U.S. Customs and Border Protection (CBP) processes for submitting an electronic e214 form for shipments subject to the Lacey Act declaration requirement. At the same time when filing the e214, filers must submit Lacey data to APHIS via LAWGS for the shipment admitted into the FTZ and corresponding to the e214.

How do I request an APHIS Lacey-assigned 11-digit alphanumeric serial number to list in the entry number field in LAWGS or on the paper form?

Use the following email template to request this serial number:

> **To:** lacey.act.declaration@usda.gov
> **Subject:** Request for FTZ Lacey-assigned serial numbers
> This is to request a block of 50 APHIS Lacey-assigned 11-digit unique serial numbers for use in the entry number field when submitting Lacey Act

declaration information electronically via LAWGS. In submitting this request, I understand that the numbers assigned are not transferable and may be withdrawn by APHIS at any time due to deviation of agency policy or noncompliance.

- Name of importer
- Name of contact at organization filing Lacey Act declaration information
  - Title of contact at organization
  - Email of contact
  - Phone number of contact

Is the e214 number required if I use LAWGS to file my Lacey data for goods admitted into the FTZ?

Yes. Filers must enter the shipment’s corresponding 17-digit e214 number in LAWGS within the field designated for this purpose. The e214 number will help the filer and the agency better track and monitor shipments admitted into and leaving the FTZ.

How do I access LAWGS?

You can access APHIS' electronic filing system at https://lawgs.aphis.usda.gov/lawgs/ .

Is there a test site for LAWGS where I can practice submitting Lacey data?

Yes. To access the test site, visit https://lawgs-training.aphis.usda.gov/lawgs/. You will see the words “LAWGS Training” in the upper left side of the LAWGS test site homepage.

Will the Automated Commercial Environment (ACE) flag shipments leaving the FTZ and entering U.S. commerce

under entry type (06)?

Yes. ACE is programmed to flag shipments based on HTS codes listed in the Lacey implementation schedule. For more information about entry types, visit File a Lacey Act Declaration.

How do I submit APHIS Lacey data for shipments leaving the FTZ and entering U.S. commerce?

Filers must follow CBP's ACE process for entry type (06) shipments that are subject to the Lacey Act declaration requirement.

Effective November 28, 2016, filers must submit Lacey data to APHIS via LAWGS for shipments admitted into FTZ and corresponding to the e214. We continue to encourage filers to use the LAWGS process for submitting information for goods admitted into the FTZ.

We've filed Lacey Act data in LAWGS for our foreign status inventory that has been admitted into our FTZ on e214 zone admissions. They are all in "Submitted" status. Do we need to complete any additional steps? Will this status change to "Accepted," or will they remain in "Submitted" status?

"Submitted" status is the last step. Once you see that, the declaration has been filed.

If my product type is not listed on the current Lacey Act implementation schedule, do I still need to comply with the Lacey Act?

Yes. Even if your product is not listed on the current implementation schedule, you must still meet all other provisions of the Lacey Act (for example, must be legally harvested). This is true regardless of the declaration requirement.

Revising a Declaration

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What should I do if I need to revise my declaration after I submit it?

To make changes to a Lacey Act declaration you submitted, follow the steps below.

- If you submitted the declaration in the Automated Commercial Environment (ACE), you may correct it in ACE within the allowable timeframe. For more information on ACE timeframes, visit U.S. Customs and Border Protection (CBP).
- If you are past the allowable timeframe for making corrections in ACE, contact APHIS at lacey.act.declaration@usda.gov.
- If you submitted the declaration in LAWGS, contact our help desk.
- If you submitted a paper declaration (465.19 KB), you must resubmit on paper with correction(s) noted at the top of the form.

What should I do if I signed the declaration but I'm not the importer of record or the authorized agent for the importer of record?

Only importers of record can revise a Lacey Act declaration. If you are not the importer of record, notify them that the declaration needs revision. You may help them by providing the information for the declaration that they may not have. If you signed a paper PPQ Form 505 and submitted it, advise the importer of record that they need to submit a new PPQ Form 505 and indicate "Corrected" at the top. If you filed the declaration in the LAWGS data system, contact APHIS to discuss next steps.

What will happen to my shipment if all of the information required by the declaration was not provided or is found to be incorrect after I filed the declaration?

If your paper declaration (PPQ Form 505 (465.19 KB)) is not complete, CBP or U.S. Fish and Wildlife Service reviewing officials may hold your shipment at the port pending inquiries to you, your agent, or APHIS. Make the corrections as soon as possible to ensure your shipment is not detained. If you or your agent file the declaration in the LAWGS data system or ACE, the systems will prompt you to ensure all of the necessary fields are completed before submission.

If you discover that the declaration contains incorrect information before or after the shipment is released, follow the guidance in the questions and answer above ("What should I do if I need to revise my declaration after I submit it?").

Please make the corrections as soon as possible to avoid additional questions from APHIS.

Violating the Lacey Act

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What happens if I do not comply with the Lacey Act?

Any person who violates the Lacey Act declaration requirement could be subject to either civil or criminal penalties.

Civil Penalties	Criminal penalties

Any person who violates the declaration requirement may be assessed a civil administrative penalty of not more than $250.

Any person who knowingly violates the declaration requirement, or knowingly falsely labels a plant or plant product, may be assessed a civil administrative penalty of not more than $10,000. [1]

Any plant or plant product imported in violation of the import declaration requirements may be subject to civil forfeiture.

If the offense involves:

- The importation of plants, fish, or wildlife, or
- The sale or purchase, offer of sale or purchase, or commission of an act with intent to sell or purchase plants, fish, or wildlife with a market value greater than $350, the criminal penalties for an individual are not more than 5 years in prison and a fine of $250,000 or twice the gross gain or loss. For a corporation the criminal penalties are not more than 5 years of probation and a fine of $500,000 or twice the gross gain or loss. Restitution and forfeitures may also be imposed.

If the offense does not involve these factors, the criminal penalties for an individual are not more than 1 year in prison and a fine of $100,000 or twice the gross gain or loss. For a corporation the criminal penalties in that circumstance are not more than 2 years of probation and a fine of $200,000 or twice the gross gain or loss. Restitution and forfeitures may also be imposed.

[1] This number is subject to inflation. Current amounts are posted in the Federal Register.

What are the penalties for violating the declaration requirement?

A person who imports plants or plant products in violation of the Lacey Act declaration requirement, or falsely labels plants or plant products, could be subject to civil or criminal penalties as follows:

Civil Penalties

Any person who violates the declaration requirement may be assessed a civil administrative penalty of not more than $250. Any person who knowingly violates the declaration requirement, or knowingly falsely labels a plant or plant product, may be assessed a civil administrative penalty of not more than $10,000.* Furthermore, any plant or plant product imported in violation of the import declaration requirements may be subject to civil forfeiture.

* *Under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. No. 114-74, Sec. 701), the U.S. Department of Agriculture is required to adjust the level of civil monetary penalties for inflation on an annual basis.*

Criminal Penalties

Any person who knowingly violates the declaration requirement or knowingly violates the false labeling prohibitions could be subject to criminal penalties if the offense involves:

- The importation of plants, fish, or wildlife; or
- The sale or purchase, offer of sale or purchase, or commission of an act with intent to sell or purchase plants, fish, or wildlife with a market value greater than $350.

The criminal penalties for an individual are not more than 5 years in prison and a fine of $250,000 or twice the gross gain or loss. For a corporation, the criminal penalties are not more than 5 years of probation and a fine of $500,000 or twice the gross gain or loss. Restitution and forfeitures may also be imposed.

If the offense does not involve one of the factors above, the criminal penalties for an individual are not more than 1 year in prison and a fine of $100,000 or twice the gross gain or loss. For a corporation, the criminal penalties in that circumstance are not more than 2 years of probation and a fine of $200,000 or twice the gross gain or loss. Restitution and forfeitures may also be imposed.

What are the penalties and sanctions for violating the Lacey Act’s trafficking prohibition?

A person who traffics in plants or plant products in violation of the Lacey Act trafficking prohibitions could be subject to civil or criminal penalties as follows:

Civil Penalties

A civil administrative penalty of not more than $10,000 may be assessed for any person who:

1. Violates the trafficking prohibitions, and
2. In the exercise of due care should know that the plant or plant product was taken, possessed, transported, or sold in violation of or in a manner unlawful under any underlying law, treaty, or regulation.

However, when the violation involved plants or plant products with a market value less than $350 and involves only the transportation, acquisition, or receipt of plants or plant products, the penalty shall not exceed the maximum provided for violation of the underlying law, treaty, or regulation of the United States, any Indian Tribal law, any foreign law, or any law or regulation of any State, if that maximum is less than $10,000.

Criminal Penalties

Criminal penalties may be assessed for any person who knowingly violates the trafficking prohibitions by:

1. Importing or exporting the plants or plant products, or
2. Engaging in conduct that involved the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase plants and plant products with a market value in excess of $350, and knew that the plant or plant product was taken, possessed, transported, or sold in violation of, or in a manner unlawful under any underlying law, treaty, or regulation.

For an individual, the criminal penalties are not more than 5 years in prison and a fine of $250,000 or twice the gross gain or loss. For a corporation, the criminal penalties are 1 to 5 years of probation and a fine of $500,000 or twice the gross gain or loss. Restitution and forfeitures may also be imposed.

Any person who knowingly violates the trafficking prohibitions and in the exercise of due care should have known that the plant or plant product was taken, possessed, transported, or sold in violation of or in a manner unlawful under any underlying law, treaty, or regulation, could be subject to criminal penalties. For an individual, the criminal penalties are not more than 1 year in prison and a fine of $100,000 or twice the gross gain or loss. For a corporation, the criminal penalties are not more than 5 years of probation and fine of $200,000 or twice the gross gain or loss. Restitution and forfeitures may also be imposed.

Permit Sanctions

Suspension, modification, or cancellation are authorized for any Federal hunting or fishing license, permit, or stamp, or any license or permit authorizing a person to import or export fish or wildlife or plants (other than a permit or license issued pursuant to the Magnuson-Stevens Fishery Conservation and Management Act) or to operate a quarantine station or rescue center for imported wildlife or plants, issued to any person who is convicted of a criminal violation of any provision of this chapter or any regulation issued hereunder. The government shall not be liable for the payments of any compensation, reimbursement, or damages in connection with the modification, suspension, or revocation of any licenses, permits, stamps, or other agreements pursuant to this section.

Forfeiture

The Lacey Act’s civil forfeiture provisions are enforced on a strict liability basis. If illegal plants, including timber, or a product made from illegal plants (and/or illegal wildlife or fish) are brought into the United States, that plant or plant product may be seized, whether or not the person from whom it is seized knew of the illegal nature of the product. Nonetheless, the government must still show that a plant, fish, wildlife, or product thereof has been imported or received in violation of a State or foreign law or regulation. Criminal forfeiture also extends to instrumentalities of the crime, such as vehicles, guns, vessels, and even factories or sawmills, if a felony conviction is obtained.

What is meant by the term "due care?"

The Lacey Act, as amended, makes it a crime to traffic in plants or plant products when, in the exercise of due care, the person should know that the plant or plant product was taken, possessed, transported or sold illegally. “Due” care is a long-standing legal principle that means the degree of care at which a reasonably prudent person would take under the same or similar circumstances. The Lacey Act does not define nor mandate any requirements to constitute due care. U.S. importers have discretion to determine how to best verify the legitimacy of their supply chain going back to where the plant material was taken, and the legality of transactions thereafter, and to abide by plant protection and conservation laws in the United States and abroad.

Is there an "innocent owner" exception?

No. There is no innocent owner defense when the plant or plant product subject to forfeiture is contraband or otherwise illegal to possess under the law.

For More Information

To learn more about the Lacey Act and how it relates to plants and plant products, contact us at the email below or visit File a Lacey Act Declaration.

For help complying with the Lacey Act declaration requirement:

Lacey Act Team

Email: lacey.act.declaration@usda.gov

Definition of "Protected Product"

A product is protected if it is:

- Listed in an appendix of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249)
- Considered an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
- Covered by any State or foreign regulation or law that provides for the protection of plants, conservation of species that are indigenous and threatened with extinction, or that regulates the theft or unlawful taking of plants

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