

BILLING CODE: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2008-0119]

Implementation of Revised Lacey Act Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and request for information.

SUMMARY: The Food, Conservation, and Energy Act of 2008 amended the Lacey Act to expand its protections to a broader range of plant species, extended its reach to encompass products, including timber, that derive from illegally harvested plants, and require that importers submit a declaration at the time of importation for certain plants and plant products. The Act also requires us to review the implementation of the declaration requirements, and to provide public notice and opportunity for comment while conducting the review. The purpose of this notice is to inform the public that we are conducting the required review and to request comments on the implementation of the declaration requirements.

DATES: We will consider all comments that we receive on or before [Insert date 45 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0119> to submit or view comments and to view supporting and related materials available electronically.

- **Postal Mail/Commercial Delivery:** Please send one copy of your comment to Docket No. APHIS-2008-0119, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2008-0119.

**Reading Room:** You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Balady, Staff Officer, Quarantine Policy Analysis and Support, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737-1231; (301) 734-8295.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Lacey Act (16 U.S.C. 3371 et seq.), first enacted in 1900 and significantly amended in 1981, is the United States' oldest wildlife protection statute. The Act combats trafficking in "illegal" wildlife, fish, and plants. The Food, Conservation, and Energy Act of 2008, effective May 22, 2008, amended the Lacey Act by expanding its protections to a broader range of plants and plant products (Section 8204, Prevention of Illegal Logging Practices). As amended, the Lacey Act now makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken in violation of

any Federal, State, tribal, or foreign law that protects plants. The Lacey Act also now makes it unlawful to make or submit any false record, account, or label for, or any false identification of, any plant covered by the Act.

In addition, Section 3 of the Lacey Act, as amended, made it unlawful, beginning December 15, 2008, to import certain plants and plant products without an import declaration. The declaration must contain, among other things, the scientific name of the plant, value of the importation, quantity of the plant, and name of the country from which the plant was harvested. Enforcement of the declaration requirement is currently being phased in.<sup>1</sup>

The Act also requires us to review the implementation of the declaration requirements, including the effect of certain exclusions from those requirements, and to provide public notice and opportunity for comment while conducting the review. Furthermore, after we have completed the review, we are required to submit a report to Congress detailing the results of that review. Specifically, the Act directs us to include in the report the following items:

- (A) an evaluation of--
  - (i) the effectiveness of each type of information required under paragraphs (1) through (2) in assisting enforcement of this section; and
  - (ii) the potential to harmonize each requirement imposed by paragraphs (1) and (2) with other applicable import regulations in existence as of the date of the report;
- (B) recommendations for such legislation as the Secretary determines to be appropriate to assist in the identification of plants that are imported into the United States in violation of this section; and
- (C) an analysis of the effect of subsection (a) and this subsection on--
  - (i) the cost of legal plant imports; and
  - (ii) the extent and methodology of illegal logging practices and trafficking.

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<sup>1</sup> Copies of notices published in the Federal Register on the implementation of the Lacey Act (including directions on how to view comments received on them), guidance on complying with the Lacey Act, and information about how to register for stakeholder notification can be found on the APHIS Web site at [http://www.aphis.usda.gov/plant\\_health/lacey\\_act/index.shtml](http://www.aphis.usda.gov/plant_health/lacey_act/index.shtml).

Therefore, we are soliciting information from the public about the implementation of the import declaration requirements. Interested parties are invited to submit comments on the issues stated above and other pertinent issues related to the implementation and enforcement of the 2008 Lacey Act amendments. Information received in response to this notice will be taken into account and included with our analysis of the implementation of the declaration requirements in the report made to Congress. Comments submitted in response to previous notices regarding implementation of the amended Lacey Act will also be taken into account and do not need to be resubmitted.

Authority: 16 U.S.C. 3371 et seq.; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 23<sup>rd</sup> day of February 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

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