



April 7, 2015

Mr. Kevin Shea
Administrator
Animal and Plant Health Inspection Service
U.S. Department of Agriculture
4700 River Road, Unit 60
Riverdale, Maryland 20737-1238

RE: Revised Lacey Act Provisions; Implementation; Docket ID: APHIS-2008-0119

Dear Mr. Shea:

I am writing for the International Wood Products Association (IWPA) to provide comments on [80 Fed. Reg. 6681 \(February 6, 2015\)](#), which informs the public of the latest phase of the Federal Government's Lacey Act enforcement schedule.

IWPA is the international trade association for the North American imported wood products industry, representing 200 companies and trade organizations engaged in the importation of hardwoods and softwoods from sustainably managed forests in more than 30 nations across the globe. Association members consist of three key groups involved in the import process: U.S. importers and consuming industries, offshore manufacturers and the service providers that facilitate trade. We appreciate this opportunity to share our views on this Notice.

We are especially grateful that Ms. Parul Patel of your staff was able to brief IWPA members and interested industry partners about this Notice and Lacey Act implementation generally during a conference call on Tuesday, March 31st.

The Notice invites comment on how the declaration requirement should be enforced as to products not included in the current phase-in schedule. It also seeks comment on the products included in Phase V of the enforcement schedule and whether any additional Harmonized Tariff Schedule (HTS) chapters should be included in the Phase V. It is our view that enforcement of the declaration requirement for goods not previously published in the Federal Register would be problematic. Industry organizations like IWPA work diligently with members to inform them about their responsibilities. Without clear notice from APHIS that a declaration is required, this would cause significant disruption in trade. Complex products, many of which are only partly made of plant and plant products, will have long and equally complex supply chains. Significant lead time will be necessary for customs agents to have the information to complete a declaration form.

In the “Additional Information” section of the Notice APHIS also included information that “[w]e are in the process of developing a proposal to establish exceptions from the declaration requirement for composite materials and products that contain a minimal amount of plant material.” While the notice indicates that APHIS will publish this proposal in the Federal Register upon its completion, we thought it would be helpful to reiterate the August 29, 2011, [Consensus Statement](#) we submitted along with nineteen industry and non-governmental organization partners that specifically addressed these matters.

1. “De Minimis” Exception

As noted in the Consensus Statement:

“We agree in principle that the law’s intent is not inconsistent with a de minimis exemption provision for products that contain a minimal amount of plant material (not of conservation concern¹) in otherwise non-plant products. However, the nature and structure for such a mechanism requires further examination.

“We believe that any de minimis exemption needs to: (1) fulfill the environmental purpose of the Lacey Act amendments, (2) help to reduce any unnecessary burden on industry, and (3) be effective, practical and feasible to implement. We continue to discuss the best means to measure de minimis (whether by volume, weight, or value, or some combination thereof). We recognize the need for flexibility to accommodate a wide variety of scenarios while also ensuring that a de minimis exception does not undermine the intent of the law. The introduction of a de minimis exception without a thorough exploration of options and possible unintended consequences is unwise.”

We are hopeful that APHIS is able to address these concerns as it finalizes drafting of a de minimis exception.

2. Composite Materials Exception

Many IWPA members that import composite wood products utilize the “Composite” Special Use Designation as directed in APHIS’s [Lacey Act Plant and Plant Product Declaration Special Use Designations](#) guidance of September 18, 2012. This has been helpful when it is impossible, through the exercise of due care, to determine the genus, species and/or country of harvest of a composite wood product. An exception for composite materials should include equally clear and practical guidance.

We look forward to submitting more complete comments when the de minimis and composite materials exception proposals are published in the Federal Register.

¹ A de minimis exception should not apply to products containing plant material from species of conservation concern that are listed in an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 27 UST 1087; TIAS 8249); as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.

In conclusion, IWPA looks forward to working closely with APHIS to facilitate implementation of this latest phase of products. As always, we stand ready to assist APHIS staff with outreach to the imported wood products industry.

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Thank you for this opportunity to share IWPA's perspective on this Notice. Please contact Joe O'Donnell (joe@iwpawood.org) or myself (cindy@iwpawood.org) if you have questions or need additional information.

Respectfully submitted,

A handwritten signature in blue ink that reads "Cindy L. Squires". The signature is fluid and cursive, with the first name "Cindy" being the most prominent.

Cindy L. Squires, Esq.
Executive Director