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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.

SUMMARY: The Food, Conservation, and Energy Act of 2008 amended the Lacey Act to provide, among other things, that importers submit a declaration at the time of importation for certain plants and plant products. The declaration requirements of the Lacey Act became effective on December 15, 2008, and enforcement of those requirements is being phased in. In 2009, we initiated a blanket declaration pilot program for participants in U.S. Customs and Border Protection's expedited border release programs. In this notice, we are announcing the end of the blanket declaration pilot program and providing guidance on how participants in the program may continue to file declarations as required by the Lacey Act.

DATES: The blanket declaration pilot program will end on [INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Richard Schading, Regulatory Policy Specialist, Permitting and Compliance Coordination, Compliance and Environmental Coordination Branch, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737-1231; (301) 851-2045.

## 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 illegally taken 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, among other things, import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken, possessed, transported, or sold in violation of any Federal, State, tribal, or foreign law that protects plants or that regulates the theft of plants; the taking of plants from a park, forest reserve, or other officially protected area; the taking of plants from an officially designated area; or the taking of plants without, or contrary to, required authorization.

In addition, Section 3 of the Lacey Act, as amended, makes it unlawful, beginning December 15, 2008, to import 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 the name of the country in which the plant was harvested. Currently, enforcement of the declaration requirement is being phased in, as described in five notices published in the *Federal Register*.<sup>1</sup>

Commenters on these notices asked that we consider establishing a program through which importers could submit periodic blanket declarations instead of submitting declarations with each shipment. The commenters noted that such declarations would reduce the paperwork

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<sup>1</sup> To view these notices and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0119>.

burden on affected entities, reduce costs, and could, in addition, improve the quality and usefulness of the information collected. Some commenters provided detailed descriptions of possible blanket declaration programs.

In response to these comments, the Animal and Plant Health Inspection Service (APHIS) began a pilot blanket declaration program on May 1, 2009 for participants in U.S. Customs and Border Protection's (CBP's) expedited border release programs, Automated Line Release (ALR) or Border Release Advance Screening and Selectivity (BRASS) in CBP's Automated Commercial System (ACS). This pilot program tested the feasibility of collecting the required information through the use of a monthly "blanket" declaration, with subsequent reconciliation reports. Blanket declarations could be used to declare routine and/or repeat shipments. The pilot program for the Lacey Act blanket declaration was open only to those entities participating in ALR or BRASS. Eligible importers who wished to participate in the pilot were required to send a letter to APHIS specifically requesting participation in the program. Eighty-two individual companies registered a total of 119 participants with the pilot program. We note that by January 2017, only eight companies were still participating in the program.

Executive Order 13659 required CBP to create a "single window" for trade to file entries through its Automated Commercial Environment (ACE). As a result, the ACS was discontinued and entries are no longer filed in that system.

Due to the development of the ACE system, and a diminishing number of participants, APHIS has decided to end the pilot program on [INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. CBP's BRASS program will continue to operate as it did prior to the creation of the pilot program, and participants in the blanket declaration pilot program will not lose their line release status in the expedited border release

programs. When the program ends, importers whose products are subject to the Lacey Act declaration requirement and clear under the BRASS program are advised to file the required declaration information along with their CBP entry summary documentation.

#### Additional Information

APHIS will continue to provide the latest information regarding the Lacey Act on our website, [http://www.aphis.usda.gov/plant\\_health/lacey\\_act/](http://www.aphis.usda.gov/plant_health/lacey_act/). The website currently contains the full text of the Lacey Act, as amended; a slideshow covering background and context, requirements, commodities and products covered, information on prohibitions, the current status of implementation of the declaration requirement of the Lacey Act, and frequently asked questions. The website will be updated as new materials become available. We encourage persons interested in receiving timely updates on APHIS' Lacey Act efforts to register for our stakeholder registry at <https://public.govdelivery.com/accounts/USDAAPHIS/subscriber/new/> and select "Lacey Act Declaration" as a topic of interest.

Done in Washington, DC, this 16<sup>th</sup> day of October 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.  
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