

*The International
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The Lacey Act – import requirements for plant and plant products

The Lacey Act, enacted in 1900, is the oldest wildlife protection statute. The Act combats trafficking in “illegal” wildlife, fish and plants. The Food, Conservation, and Energy Act of 2008 amended the Lacey Act by expanding its protection to a broader range of plants and plant products. For many years, importers have been keenly aware of the nature and types of animals, fish and plants that are prohibited from importation into the U.S. under the Act. The 2008 amendments have substantially broadened the definition of **plant products** and, beginning on December 15, 2008, made it unlawful to import certain plants and plant products without an import declaration.

Under the amended Lacey Act, “**Plant**” means: “Any wild member of the plant kingdom, including roots, seeds, parts or product thereof, and including trees from either natural or planted forest stands.” After a phase-in period, plants and plant products will include those things found classified in, among others to be announced, HTS chapters, 6, 44, 47, 48, 92, and 94.

Importers are required to submit a declaration for certain plants and plant products. 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 from which the plant was harvested.

For paper and paperboard products with recycled plant content, the importer will not be required to specify the species or country of harvest but will be required to provide the average percent of recycled content. If the imported product has a non-recycled component the basic declaration requirements apply to that component.

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There are three categorical exceptions to the declaration filing requirement:

1. Common cultivars, except trees, and common food crops.
2. Scientific specimens of plant genetic material
3. Plants that are to remain planted or to be planted or replanted.

There are also exceptions to the exceptions.

The Animal & Plant Health Inspection Service (APHIS) has made available at their website a declaration form that may be employed. However, APHIS and other agencies are working toward to the filing of this declaration via electronic media. This development process is on-going. On or about April 1, 2009 APHIS expects to have their electronic filing system in place and functional. As soon thereafter as practicable, APHIS, in conjunction with CBP, will begin enforcement of the declaration requirement.

Once the electronic system is in place and operational the phase-in will begin with electronic declarations for goods covered by HTS chapter 44 (wood and articles of wood) and HTS chapter 6 (live trees, plants, bulbs, cut flowers, ornamental foliage, etc.). On or about September 1, 2009 a second phase-in with additional HTS chapters will begin.

Importers are strongly advised to frequently visit:

http://www.aphis.usda.gov/plant_health/lacey_act