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INTERNATIONAL TRADE & CUSTOMS UPDATE

APHIS Issues Revised Lacey Act Reporting Schedule

The Lacey Act, a law established to protect wildlife through the regulation of trade, was amended last year to address the problem of illegal logging and the trade in products arising from it. These amendments also required importers to file a declaration for any items containing wood or “plant material.” To implement this requirement, the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture has been working with an interagency group (consisting of the U.S. Forest Service, Customs and Border Protection (CBP), the Office of the U.S. Trade Representative, the U.S. Department of Justice, the U.S. Department of State, the U.S. Fish and Wildlife Service, the Council on Environmental Quality and the Department of Commerce) on a plan that would clarify the broad definition of “plant material” contained in the amendments for importers to determine whether they must prepare a declaration. The first implementation plan, published in the October 8, 2008 Federal Register, phased in the reporting requirements. In response to public comments to that plan, APHIS released a new implementation plan in the February 3, 2009 Federal Register.

The new plan revises the phase-in schedule and extends the length of each phase from three months to six months. Also provided is a list of the products to be included in each phase, which is largely based on the product’s degree of processing and the complexity of its composition. For example, during the first phase, the import declaration will be required for products that have been minimally processed and/or of less complicated composition. Below is a table that provides more details of the plan:

PHASE-IN SCHEDULE OF ENFORCEMENT OF THE DECLARATION REQUIREMENT FOR GOODS OF, OR CONTAINING, PLANTS OR PLANT PRODUCTS

I Present–March 2009	II April 1, 2009–September 30, 2009	III October 1, 2009–March 31, 2010	IV April 1, 2010–September 30, 2010
PPQ Plant Import Declaration Form will be available on Web site, and accepted after December 15, 2008. Domestic and International Outreach	HTS Chapters: Ch. 44 Headings (wood & articles of wood) 4401—(Fuel wood) 4403—(Wood in the rough) 4404—(Hoopwood; poles, piles, stakes) 4406—(Railway or tramway sleepers)	HTS Chapters: Ch. 44 Headings (wood & articles of wood) 4402—(Wood charcoal) 4405—(Wood wool [excelsior]) 4410—(Particle board) 4411—(Fiberboard of wood)	HTS Chapters: Ch. 44 Headings (wood & articles of wood) 4421—(Articles of wood, nesoi) Ch. 48 Headings (paper & articles of) 4801—(Newsprint)



I Present–March 2009	II April 1, 2009–September 30, 2009	III October 1, 2009–March 31, 2010	IV April 1, 2010–September 30, 2010
	4407—(Wood sawn or chipped lengthwise) 4408—(Sheets for veneering) 4409—(Wood continuously shaped) 4417—(Tools, tool handles, broom handles) 4418—(Builders' joinery and carpentry of wood)	4412—(Plywood, veneered panels) 4413—(Densified wood) 4414—(Wooden frames) 4415—(Packing cases, boxes, crates, drums) 4416—(Casks, barrels, vats, tubs) 4419—(Tableware & kitchenware, of wood) 4420—(Wood marquetry; caskets; statuettes) Ch. 47 Headings (wood pulp) 4701—(Mechanical wood pulp) 4702—(Chemical wood pulp, dissolving) 4703—(Chemical wood pulp, sulfate) 4704—(Chemical wood pulp, sulfite) 4705—(Combination mechanical and chemical) PLUS PHASE II	4802—(Uncoated writing paper) 4803—(Toilet or facial tissue stock) 4804—(Uncoated kraft paper) 4805—(Other uncoated paper and board) 4806—(Vegetable parchment, <i>etc.</i>) 4807—(Composite paper and board) 4808—(Corrugated paper and board) 4809—(Carbon paper) 4810—(Coated paper and board) 4811—(paper coated, <i>etc.</i> , other than 4803, 4809, or 4810) Ch. 94 Headings (furniture, <i>etc.</i>) 940169 (seats with wooden frames) 940330 (wooden office furniture) 940340 (wooden kitchen furniture) 940350 (wooden bedroom furniture) 940360 (other wooden furniture) 94039070 (wooden furniture parts) PLUS PHASES II & III

APHIS is now receiving comments on this schedule. While APHIS may make changes to Phases III and IV, it will not make any further changes to Phase II. If new products are added to Phases III and IV, APHIS intends to provide at least six months' notice to the affected industries.

Declaration requirements are effective as of December 15, 2008 (paper forms are currently available for voluntary submission), but no agency will bring prosecutions or forfeiture actions for



failing to complete a paper declaration form, and customs clearance will not be denied for lack of a declaration before the identified phase-in dates. All declarations submitted, however, must be accurate, and false statements may be referred for enforcement at any time. CBP is modifying its Automated Commercial System (ACS) to collect all the data to be declared and anticipates completion of those changes by April 1, 2009.

APHIS will consider all comments on the revised implementation plan received on or before **April 6, 2009**.

FOR MORE INFORMATION

Please contact **Julia M. McCalmon** or any member of our **International Trade & Customs** practice group for more information.

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