



FedEx Regulatory Alerts & Updates

Regulatory Alert: Phase 6 of the Lacey Act Enforcement Schedule

August 24, 2021

BACKGROUND

The Animal and Plant Health Inspection Service (APHIS) published a Federal Register Notice (FRN) on March 31, 2020 announcing Phase VI of the enforcement schedule, which was initially set to commence on October 1, 2020. However, APHIS opted to delay the original implementation date due to the impacts of the COVID-19 pandemic.

APHIS announced in an FRN on July 2, 2021 that Phase VI of the Lacey Act enforcement schedule will begin October 1, 2021.

Section 3 of the Lacey Act makes it unlawful to import certain plants, including plant products, without an import declaration. The import declaration serves as a tool to collect information regarding the content of a shipment, which aids in combatting illegal trade in timber and timber products by ensuring importers provide required information. The Food, Conservation, and Energy Act of 2008 amended the Lacey Act by expanding its protections to a broader range of plants and plant products that was previously provided by the Act.

WHAT HAS CHANGED?

There are 19 new Harmonized Tariff Schedule of the United States (HTSUS) headings subject to Lacey Act declaration requirements in the July 2, 2021 FRN.

Though pallets are one of the newly covered products in Phase VI, APHIS will require a declaration only for new pallets in HTSUS Heading 4415 that are formally entering the U.S. as purchased commodities. The declaration requirement does not apply to used, recycled, or reclaimed pallets or to pallets, empty or under load, that are used to carry goods imported into the U.S.

The HTSUS headings newly subject to Lacey Act declaration requirements as of Oct. 1, 2021 are as follows:

3301.29.5109 - Essential oils of cedarwood

3301.29.5121 - Essential oils of linaloe or bois de rose

3301.29.5139 - Essential oils of sandalwood

4202.29.2000 - Trunks, cases and suitcases of wood

4202.99.2000 - Other, of wood, not lined

4202.99.3000 - Other, of wood, lined

4410.12 - Oriented strand board (OSB)

4415 - Cases, boxes, crates, drums, containers, pallets, box-pallets, etc.

9205.90.2000 - Wind musical instruments: bagpipes

9205.90.4020 - Clarinets

9205.90.4080 - Other (woodwind instruments)

9205.90.4060 - Flutes and piccolos

9206.00.2000 - Drums

9207.90.0040 - Musical instruments (fretted string instruments)

9209.92 - Parts and accessories for musical instruments of heading 9202

9209.99.2000 - Parts and accessories for bagpipes

9209.99.4040 - Parts and accessories for other woodwind instruments

9209.99.8000 - Other

9620.00.5500 - Monopods, bipods, tripods and similar articles of wood

Q & A

Q 1: How many different phases of the Lacey Act have been implemented by APHIS?

A 1: APHIS developed a schedule for implementing the various declaration requirement changes. Phases 1, 2, and 3 went into effect in 2009; phase 4 in 2010; and phase 5 in 2015. All changes to the requirements are announced with published notices in the Federal Register to keep interested parties and the public informed.

Q 2: Do U.S. importers need to arrange for a Lacey Act declaration to import a musical instrument into the U.S.?

A 2: You do not need to file a Lacey Act declaration for your instruments if U.S. Customs and Border Protection (CBP) considers your imported instrument an informal entry (valued less than \$2500). APHIS is not enforcing the Lacey Act declaration requirement for informal

entries at this time. You are required to file a Lacey Act declaration if CBP considers your importation a formal entry.

However, some musical instruments contain protected plant material listed in Appendices I and II of the Convention on International Trade in Endangered Species (CITES). If your instrument contains any of those materials, you may be required to obtain a CITES permit or other import documentation to travel across international borders with your musical instrument. Please see the CITES link in the REFERENCES section below for more details on CITES requirements.

Q 3: Is there an available list of HTSUS codes that identify all products requiring a Lacey Act Declaration and not just the new Phase VI items listed above?

A 3: There is a complete list of the various HTSUS Heading codes provided in the Lacey Act Implementation Declaration Schedule posted in the REFERENCES section below.

REFERENCES

July 2, 2021 Federal Register Notice of Implementation of Revised Lacey Act Provisions:

<https://www.federalregister.gov/documents/2021/07/02/2021-14155/implementation-of-revised-lacey-act-provisions>

The Lacey Act Declaration Guide:

https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/SA_Lacey_Act

Lacey Act Implementation Declaration Schedule:

<https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/lacey-act/implementation-schedule>

CITES:

https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/permits/plants-and-plant-products-permits/cites/ct_cites_endangered_plants

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