

Lacey Act Amendments of 2008

Exercising Due Care To Ensure Compliance



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History of the Lacey Act

- Oldest wildlife protection statute in the U.S.
- Well-established tool to combat trafficking in illegal wildlife, fish, and plants
- Amended in May 2008 to provide a tool to combat illegal logging and trade in illegally taken plants

The Amended Lacey Act

The Lacey Act now makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken or traded in violation of plant protection laws of the U.S. or foreign governments.

Examples of Illegal Logging:

- Theft of timber, including taking from parks, forest reserves, protected areas, and officially designated areas
- Taking without, or contrary to, required authorization
- Taking without payment of royalties, taxes, or stumpage fees
- Taking in violation of law governing the export or transshipment of plants.

Lacey Act Enforcement

Penalties for Lacey Act Violations:

- Forfeiture—seizure of product
- Civil Penalties—Monetary penalties
- Criminal Penalties—Fines and potential imprisonment

Lacey Act Violations

- **Forfeiture**

- > Strict liability forfeiture if the plant was illegally taken, possessed, transported, or sold.

- **Civil Penalty**

- > In the exercise of due care should have known plant was illegally taken, possessed, transported, or sold

- **Criminal Misdemeanors**

- > In the exercise of due care should have known plant was illegally taken, possessed, transported or sold
- > Or knew of illegality, but plant value of less than \$350

- **Criminal Felonies**

- > Knowing violation– knowledge of facts and illegality, need not know specific law violated
- > Involves import or export or commercial conduct with plant value of more than \$350

Exercising Due Care

- ❑ “Due care means that degree of care which a reasonably prudent person would exercise under the same or similar circumstances.”
- ❑ Due care “is applied differently to different categories of persons with varying degrees of knowledge and responsibility.”

Due care: Common-Sense Red Flags

- ✓ Goods significantly below going market rate
- ✓ Cash only or a lower price for goods without paperwork
- ✓ Paperwork invalid or otherwise suspect
- ✓ Unusual sales methods or practices
- ✓ Transactions fit the description of illegal transactions discussed in trade/industry publications
- ✓ Inability of suppliers to provide rational answers to routine questions

Tools to Demonstrate Due Care

- Develop a compliance plan
- Document how you follow compliance plan in business transaction
- Train employees—they are your agents
- Visit suppliers
- Ask questions
- Develop and follow industry standards

Lacey Act Enforcement Cases

U.S. v. Harlan Crouch and Cocobolo, Inc.,

- ◉ Wood From Peru Valued At \$7,150.00
- ◉ Strict Liability Administrative Forfeiture Under Lacey Act
- ◉ Petition for Remission (Return of Wood) Denied June 2010

Lacey Act Enforcement Cases

U.S. v. Gibson Guitar Co.

- August 6, 2012 – Criminal Enforcement Agreement with the U.S. Department of Justice
 - Monetary Penalty of \$300,000
 - Community Service Payment of \$50,000
 - Gibson Agreed to Forfeiture of Wood from Madagascar valued at \$261,000

APHIS Lacey Act Website

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

The screenshot shows a web browser window displaying the APHIS Lacey Act website. The page features a header with the USDA logo and navigation links. A search bar and a 'Browse by Audience' dropdown are on the left. The main content area includes a 'Plant Health' banner, a 'Lacey Act' section with a description and a list of resources, and a 'Related Topics' sidebar on the right.

USDA United States Department of Agriculture
Animal and Plant Health Inspection Service

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You are here: Home > Plant Health > Lacey Act

Plant Health

Lacey Act

The Lacey Act combats trafficking in "illegal" wildlife, fish, and plants. The 2008 Farm Bill (the Food, Conservation, and Energy Act of 2008), effective May 22, 2008, amended the Lacey Act by expanding its protection to a broader range of plants and plant products. The Lacey Act now, among other things, makes it unlawful, beginning December 15, 2008, to import certain plants and plant products without an import declaration. This page will serve as a clearinghouse for all information related to the implementation of the Lacey Act declaration requirement and will be updated promptly as new information becomes available.

- **PPQ FORM 505: Plant and Plant Product Declaration Form** (PDF; 410 Kb)
- **Federal Register: Implementation of Revised Lacey Act Provisions** (PDF; 59 Kb)
- **Lacey Act Amendment: Implementation Questions and Answers** (PDF; 34 Kb)
- **Presentation: Amendments to the Lacey Act Farm Bill 2008** (PDF; 130 Kb)
- **Amendments to the Lacey Act from H.R.2419, Sec. 8204** (PDF; 81 Kb)
- **Public Meeting: Lacey Act Plant & Plant Product Declaration Requirement Implementation Plan** (PDF; 11 Kb)
- **Amendments to the Lacey Act Farm Bill Questions and Answers Session, October 14, 2008** (WMV; 90 minutes)
- **Transcript: Amendments to the Lacey Act Farm Bill Questions and Answers Session, October 14, 2008** (PDF; 109 Kb)
- **Lookup plant genus and species**

Email Contact Information

Please submit questions regarding the new Lacey Act declaration requirement to the following email address:

- lacey.act.declaration@aphis.usda.gov.

APHIS, PPQ Stakeholders Registry

If you wish to be notified as new information become available regarding implementation of the Lacey Act declaration requirement, please register for the APHIS-PPQ stakeholder registry and select Lacey Act Declaration as a topic of interest.

- [Stakeholders Registry](#)

Related Topics

- Overview
- Plant Pest Program Information
- Pest Detection
- Pest Identification
- Plant Import and Export
- Permits
- Crop Biosecurity and Emergency Response
- Spotlights for PPQ

I Want To...

- [Learn About and Access the FAVIR Database](#)
- [Learn About the Special Needs Request Rule](#)
- [View PPQ electronic manuals](#)
- [Import a plant, plant product, or soil into the U.S. \(PERMIT\)](#)
- [Transfer a plant, plant product, or soil through the U.S.](#)
- [Join the PPQ Stakeholder Registry](#)
- [Bring a plant pest or biological control organism into the U.S.](#)
- [Export a plant or plant product](#)
- [Identify a pest](#)
- [View environmental documents](#)
- [Learn about PPQ](#)
- [View the PPQ Organization Structure](#)
- [Learn about the Center for Plant Health Science and Technology \(CPHST\)](#)
- [Learn about the New Pest Advisory Group \(NPAG\)](#)
- [View the MOA between DHS and USDA](#)
- [View the Final Report and Action Plans of the APHIS-CBP Joint Task Force on Improved Agriculture Inspection](#)
- [Sign the Declaration](#)

Please refer Lacey Act inquiries
to:

lacey.act.declaration@aphis.usda.gov

