

The Lacey Act Amendments from the Farm Bill: An Approaching Catastrophe At Our Borders

Included in the recently enacted Farm Bill is a provision to expand the scope of plants covered by the Lacey Act, a law that prohibits trade in wildlife, fish and plants that have been illegally taken, possessed, transported or sold. The Lacey Act Amendments are designed to prevent illegal logging and illegal harvesting of protected plants and trees.

One feature of the Lacey Act Amendments is a new import declaration requirement for plants and plant products beginning December 15, 2008. The declaration must contain precise sourcing information, including the scientific name of any and all plant/wood (including the genus and species) contained in the product and the name of the country from which the plant/wood was taken, among other things.

This seemingly simple requirement raises significant concerns:

- The sheer scope of products that will be subject to the import declaration is extraordinary. "Plants and plant products" is defined to include such widely disparate products as furniture, wine with corks, umbrellas, boats, cars, chewing gum, rayon, books, pots and pans with wood handles, maple syrup. In fact, CBP reports that the import declaration requirement will impact 85 out of the 97 chapters in the Harmonized Tariff Schedules.
- The import declaration will have to be collected manually, since CBP lacks the programming funds to collect this data electronically. Moreover, there is not sufficient time to develop the needed substantive programming changes before the deadline, even if funding were not an issue. This will remove an estimated 50% of import transactions from CBP's electronic processing system, with profound repercussions on the supply chain. This means millions of pieces of paper injected into a process that is now essentially paperless.
- CBP and USDA have no electronic interface so the data will be *manually shared and reviewed*. This is absurdly inefficient and, given the volume of trade, it will be a futile exercise yielding little environmental benefit.
- The required scientific information for the import declaration is often unobtainable for products that incorporate many types of plant/wood species. In situations in which the original tree or plant source is not known, the law requires the filing of even more detailed certifications – the name of *each* species of plant/wood that *might* have been used to produce the product or the name of *each* country from which the plant/wood *might* have been taken. How meaningful is this expanded list of speculative possibilities to anyone?

The Lacey Amendments were passed with the best of intentions but without a complete understanding of the far-reaching and disruptive impact on the supply chain and, in turn, the economy, which is so dependent on the smooth flow of commerce. Implementation of a paper-intensive requirement for nearly half the 30 million annual import transactions moving in a fast-paced, fully automated trade environment is unthinkable. We urge Congress to roll back the implementation of the import declaration requirement for two years while a review is conducted by an independent agency, such as the Government Accountability Office, to suggest ways that the proposal can be more focused, realistic and enforceable.

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