



PPQ 2022 Annual Report

The Lacey Act:

Combating the Illegal Trade of Protected Plant Species

Table of Contents

Introduction 1

Lacey Act Declarations..... 2

Introduction

The U.S. Department of Agriculture’s Plant Protection and Quarantine (PPQ) program conducts activities related to the 2008 Farm Bill amendments to the Lacey Act, which prohibit the importation of any plants, with limited exceptions, that are taken or traded in violation of domestic or international laws. The Act requires a declaration for imported shipments of most plants or plant products. A 2012 study by the United Nations Environmental Programme estimated the value of illegal logging, including processing, to be between \$30 billion and \$100 billion, or from 10 to 30 percent of the global wood trade.

The Lacey Act amendments are designed to help combat this illegal logging by encouraging importers to research their supply chains and be aware of the laws governing products they purchase in other countries. PPQ’s role is to evaluate and implement existing regulations, provide guidance to importers

regarding the required declaration, perform compliance checks, provide enforcement agencies with declaration information to assist their investigations, and maintain declaration records.

Lacey Act Declarations

In fiscal year (FY) 2022, PPQ received approximately 1.2 million Lacey Act declarations electronically or on paper (the vast majority were received electronically through the U.S. Department of Homeland Security's Customs and Border Protection's (CBP) Automated Cargo Environment system. Since implementing the 2008 amendments to the Lacey Act, PPQ has added products to the declaration requirement/enforcement schedule in phases. On October 1, 2021, PPQ implemented phase six, which expanded the Lacey Act declaration requirement to items such as new wooden pallets and containers, essential oils, and certain musical instruments made of wood, among other items. PPQ originally announced phase 6 in the Federal Register on March 2020, with an effective date of October 1, 2020, but delayed the implementation date by a year to allow pallet producers and essential oil importers time to adjust practices as needed to be able to meet the Lacey Act requirements in response to concerns raised by industry representatives.

Based on these concerns, PPQ is proactively beginning outreach for the next implementation phase (phase 7), which will cover all remaining non-composite wood products for which declarations are not already required. Due to the complexity involved in the production of composite products and the likelihood of additional rulemaking for declaration requirements, they will be addressed in phase 8, which PPQ anticipates will be the final implementation phase. PPQ began informal outreach to stakeholders as well as site visits to understand the details of composite product construction to understand the difficulties for the industry in meeting current declaration requirements.

In FY 2022, PPQ developed a tool to designate Lacey Act noncompliance risk scores for over 800 commodities that are imported into the United States. This tool will help inform compliance efforts by allowing the program to focus on high-volume, high-risk commodities. In FY 2022, PPQ issued more than 200 letters of noncompliance for importers whose declarations contain errors. This non-punitive outreach tool informs filers that there are likely errors in their declaration, corrections should be made in future filings, and enforcement action could be taken on future filings. The letters provide contact information for questions or concerns. PPQ and its Federal partners (including other USDA agencies, CBP, the U.S. Department of Justice, and the U.S. Department of the Interior's Fish and Wildlife Service [FWS]) continued to expand and improve Lacey Act compliance programs by developing plans for and conducting documentation reviews of importers, continuing development of wood identification technologies, and considering alternatives to seizing and forfeiting shipments due to the time and cost involved.

In FY 2020, PPQ received supplemental funding under the United States-Canada-Mexico trade agreement to carry out enforcement of the Lacey Act Amendments related to trade in plant and plant products between the United States and Mexico. In FY 2022, PPQ procured software that will enable the Lacey Act program to conduct in-depth analysis of Lacey Act declaration data and integrate it with other data sets, such as CBP data on imports and lists of threatened plant species, among others. This capability will allow PPQ to identify non-compliant importers, identify suspicious documentation, and conduct risk-based analyses of declaration data. PPQ will focus analyses on species of concern in Mexico or that may be transshipped through Mexico.

Additionally, PPQ provided funding to USDA's Forest Service through an interagency agreement to identify tree species that are protected in the wild but also grown commercially on farms to help inform

analysis and compliance efforts. Protected trees are sometimes listed on Lacey Act declaration forms. Trading of these species is often illegal if harvested from natural habitats, but legal when cut from planted forests. Information on planted forests is sparsely available. The goal of the project is to collect and map planted forest data focusing on South American species that could be routed into or through Mexico. The outcome will be an updated spatial database of planted trees that will assist PPQ in Lacey Act enforcement related to the USMCA. It will also provide data for the Arbor Harbor development group working on wood identification projects and other partners involved in Lacey Act enforcement, including the U.S. Department of Justice and the FWS, as well as non-governmental organizations involved in forest conservation.