

# The U.S. Lacey Act

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# The Amended Lacey Act

Oldest U.S. wildlife protection statute

A well-established tool to combat trafficking in illegal wildlife, fish and plants

Amendments provide a tool to assist other countries and U.S. states in combating illegal logging

# 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 the laws of a U.S. State, or most foreign laws.

# The Amended Lacey Act

It is unlawful to submit a false record or label, or any false identification of a covered plant

The amendment also introduces a requirement for a Plant Import Declaration

Substantive provisions in effect and enforced since May 22, 2008

Declaration requirement enforcement being phased in

# The Plant Import Declaration

- The declaration requires basic information about the shipment: scientific name of the plant, value, quantity and the name of the country in which the plant was harvested

Does **not** require information on legality or “chain of custody”

Does **not** establish standards or require certification

# Lacey Act Enforcement

## Penalties for Lacey Act Violations:

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

# Lacey Act Investigation and Enforcement

Information obtained from

- U.S. Federal Agents at the Border
- Industry Members—employees or competitors
- Foreign Governments
- International Organizations
- Non-Governmental Organizations

Always evaluate and substantiate initial information before launching full investigation

# 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 lower price for goods without paperwork
- Asked to pay bribe
- Unusual sales methods or practices
- Legal tariffs or duties not included in price
- Product labeling incorrect
- Permits or paperwork facially invalid or questionable
- Unable to get rational answers to questions

# Useful 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: Key features

- Prohibits trafficking, false labeling
- Burden of proof on U.S. government
- Fact based, not document based approach
- Requires due care but does not establish standards

## For Additional Information

[www.aphis.usda.gov/plant\\_health/lacey\\_act/](http://www.aphis.usda.gov/plant_health/lacey_act/)

Refer inquiries to:

[lacey.act.declaration@aphis.usda.gov](mailto:lacey.act.declaration@aphis.usda.gov)