

# LACEY ACT UPDATE...

April 2009

Dear Valued Customer:

As you know, the LACEY ACT amendment has begun its second phase as of April 1, 2009.

We've had many questions from our customers about the basis of the law and its enforcement, the compliance procedure and more specifically, what each of our roles are in this process.

To help answer many of these questions we have attached the most recent FAQ update from the United States Department of Agriculture dated March 27, 2009 (link [www.usda.gov](http://www.usda.gov)). While not all points may apply to you, we are confident that you will find this document informative and to-the-point.

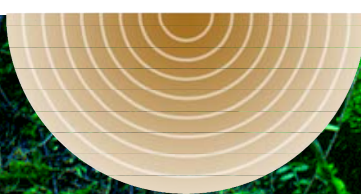
From our end, ARK FLOORS has been filing the required declaration forms in accordance with procedure and have begun enclosing completed copies of these forms in each shipment for you (see sample attached). Kindly keep on file and forward a copy along to your customers as it applies.

Since the Lacey Act is an ongoing process that is now part of our industry, as a further resource ARK FLOORS has added a section to our website called GREEN STORY. On this link you will find all LACEY and CARB act updates along with information on green issues in general as well as our commitment specifically, Just go to [www.ark-floors.com](http://www.ark-floors.com) and click on the GREEN STORY link at the top of the page.

As always, we look forward providing you with quality products, outstanding service, and the tools you need to complete in this ever-changing market. Should you have any further questions, please don't hesitate to contact your ARK FLOORS Sales Representative.

Sincerely,  
A&W / Ark Floors Inc.

**ARK**  
F L O O R S



**1. How do the 2008 amendments of the Lacey Act apply to forest, farm and associated operations within the United States and our trust territories?**

The 2008 Farm Bill amended the Lacey Act by expanding its protection to a broader range of plants and plant products than were previously covered by the Act. The Lacey Act now, among other things, makes it unlawful to import applicable timber or plant products without an import declaration (see other Q&A's specifically on the new declaration requirement). The Lacey Act prohibitions against illegal harvest, transport and trade can also be prosecuted domestically in cases where covered timber and plants are illegally taken from Federal land, or illegally taken from State or private lands and then entered into interstate or foreign commerce. Finally, the Lacey Act makes it unlawful to make or submit any false record or label with respect to any covered plant or plant product, including timber.

**2. What constitutes a Lacey Act violation based on violation of domestic law?**

Cases may include, but are not limited to, those involving the transportation, sale, receipt, acquisition or purchase of illegally taken plants, including timber. Illegally taken plants are those plants taken in violation of Federal, State or Tribal law, including State forest practice acts. Generally, Lacey Act violations are triggered when the illegally taken plants are entered into interstate or foreign commerce, or when such products are transported within or from Federal or Tribal lands. Therefore, if a tree is illegally harvested in a national park, Lacey Act charges may be brought against any person who exports, transports (even if the transport remains within the same Federal jurisdiction), sells, receives, or purchases that tree, timber from the tree, or any product thereof.

**3. Is new documentation now required for the interstate transport of timber and plant products?**

No. Although the Lacey Act does now require an import declaration for timber and plant products being imported into the United States, it does not introduce any new documentation requirement for interstate transport of plants or plant products.

**4. Does the amendment apply to or affect management of domestic forest operations or the reporting requirements associated with them?**

The prohibitions of the amended Lacey Act apply to domestic (interstate) commerce as well as international trade (both imports and exports). The amended Lacey Act does not require anything explicitly different or additional of forest operations, nor does it impose any additional paperwork or reporting requirements beyond the new import declaration. However, those responsible for a variety of plant and timber transport, purchasing and processing should know their supply sources as a matter of good practice. Those who either knowingly or unknowingly accept illegally taken and transported covered plant or timber products may be subject to prosecution and/or loss of the shipment due to seizure and

forfeiture (see relevant Q&As on penalties and enforcement actions associated with the Lacey Act). U.S. exporters of a plant or timber that is finished internationally and imported back into the U.S. may need to provide species and country of harvest information so that the subsequent importer can comply with their declaration requirements.

**5. What additional tools or options does the Lacey Act potentially provide for dealing with domestic timber theft that did not exist before?**

Illegally taken timber and plant products can now be seized/forfeited and those who do not exercise due care in the procurement, purchase and transport of such products can be prosecuted under the Lacey Act if the plant products were illegally harvested on Federal or Tribal land, or if they were illegally harvested in violation of State law and entered into interstate commerce. Therefore, the amended Lacey Act now provides the basis for greater cooperation among States, and between the States and the Federal government to combat timber theft. States can now work with the appropriate Federal law enforcement agencies to investigate and prosecute Lacey Act violations. For further information, please see the Q&A's on the enforcement provisions of the Lacey Act.

**6. Will Federal agents be "checking" compliance with State forest practices regulations?**

State forest practices regulations are enforced by their respective State jurisdictions. However, in cases where illegally taken plant products are transported across State lines, involved States can now cooperate with the federal prosecutors to bring Federal Lacey Act charges against violators. It is possible that information obtained by or provided to Federal agents may lead to Federal Lacey Act charges against violators of State forest and plant conservation laws and regulations.

**7. Does the Lacey Act apply differently to timber harvested in violation of Federal, State or Tribal law?**

Yes. On State and private lands, the Lacey Act prohibits the transportation, sale, receipt, acquisition, or purchase in interstate or foreign commerce of covered plants, timber or plant products harvested in violation of State conservation laws and regulations. On Federal and Tribal lands and jurisdiction, the same prohibitions apply regardless of whether the plant, timber or product was entered into interstate or foreign commerce.

**8. What Federal agencies will be responsible for enforcing the Lacey Act domestically?**

In cases where timber and other plant products are illegally taken from Federal land, the designated Federal law enforcement agency (i.e. U.S. Forest Service, National Park Service, U.S. Fish and Wildlife Service, etc.) has enforcement authority. For cases involving State and private land, there is currently no single Federal enforcement agency or clearly established processes or agency relationships. The Forest Service is currently exploring this issue and possible alternatives with the National Association of State Foresters.

# Plant and Plant Product Declaration Form



**U.S. DEPARTMENT OF AGRICULTURE**  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
PLANT PROTECTION AND QUARANTINE

Section 3: Lacey Act Amendments of 2008 (16 U.S.C. 3372)

## Applicability of Declaration:

You are required to complete this form if you are importing any of the following:

Any wild member of the plant kingdom, including roots, seeds, parts, or products thereof, and including trees from either natural or planted forest stands, except:

1. Common cultivars, except trees, and common food crops (including roots, seeds, parts, or products thereof);
2. \* Scientific specimens of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that are to be used only for laboratory or field research;
3. \* Plants that are to remain planted or to be planted or replanted; or
4. Plants used exclusively as packaging material to support, protect, or carry another item, unless the packaging material itself is the item being imported.

\* You must still complete this form if you are importing plants described under 3. and 4. that are listed:

- In an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);
- As an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or
- Pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.

## SECTION 1 - Shipment Information

1. ESTIMATED DATE OF ARRIVAL: (MM/DD/YYYY)	
2. ENTRY NUMBER:	3. CONTAINER NUMBER:
4. BILL OF LADING:	5. MID:
6. IMPORTER NAME:	8. CONSIGNEE NAME:
7. IMPORTER ADDRESS:	9. CONSIGNEE ADDRESS:

I certify under penalty of perjury that the information furnished is true and correct:		
_____ Signature	_____ Type or Print Name	_____ Date

Knowingly making a false statement in this Declaration for Importation may subject the declarant to criminal penalties in accordance with 16 U.S.C. 3373(d).



1. **Estimated Date of Arrival:** Enter the date (MM/DD/YYYY) that the product is expected to enter the United States of America.
2. **Entry Number:** Enter the U. S. Customs entry number assigned to this shipment. (Format: xxx-xxxxxxx-x)
3. **Container Number:** Enter the number of the shipping container in which the product is being shipped - available from your shipping company. If there is no container number, please leave this section blank.
4. **Bill of Lading:** Enter the Bill of Lading (BOL) number assigned to this shipment - available from the shipping company. If there is no Bill of Lading number, please leave this section blank.
5. **MID:** Manufacturer Identification Code - available from the manufacturer or customs broker (19 CFR Appendix to Part 102).
6. **Importer Name:** Enter the name of the import company or individual for the product.
7. **Importer Address:** Enter the address of the import company or individual in #6.
8. **Consignee Name:** Name of the individual or company who ordered and will ultimately receive the shipment.
9. **Consignee Address:** Enter the address of the individual or company in #8.
10. **Description of the Merchandise:** Enter the name of the plant or plant product, and its use (example: floral arrangement for decorative purposes).
11. **HTSUS Number:** Enter the Harmonized Tariff Code for the merchandise described in #10 - available at <http://www.usitc.gov/tata/hts/>.
12. **Entered Value (in U.S. Dollars):** Write the entered value of the imported merchandise described in #10 in U.S. Dollars.
13. **Article/Component of Article:** Enter a brief description of each article, or component of an article, that is manufactured from plants or plant parts. (Example: A decorative item including a wood frame and 100 % recycled paperboard - enter the frame as a line item, and record the percent recycled material in the paperboard in section #13.)
14. **Plant Scientific Name:** For each article/component in #14 enter the scientific name (example: See next page). If the species of plant used to produce the product varies, and the species used to produce the product is unknown, enter each species that may have been used to produce the product.

- 15. Country of Harvest:** Enter the country of origin (where the plant was harvested) (example: See below). If the country of harvest varies, and is unknown, enter all countries from which the plant material in the product may have been harvested.
- 16. Quantity of Material:** How much product/merchandise is in the shipment (example: See below).
- 17. Unit of Measure:** Use the drop down box on the form to enter the units for #17. (example: See below).

doz - dozen

kg - kilograms

m - meter

m<sup>2</sup> - square meters

m<sup>3</sup> - cubic meters

No. - number

pcs - pieces

t - metric tons

bf - board feet

- 18. % Recycled Material:** If the product is paper or paperboard, enter the percentage of recycled material it contains (0 - 100%). If the percentage of recycled material varies, enter the average percentage of recycled material used in the product (example: If the percentage of recycled material used is between 25% and 45%, enter 35%).

13. ARTICLE/COMPONENT OF ARTICLE:	14. PLANT SCIENTIFIC NAME: (Genus and Species)	15. COUNTRY OF HARVEST:	16. QUANTITY OF PLANT MATERIAL:	17. UNIT OF MEASURE:	18. % RECYCLED MATERIAL
Tables made of Ramin Wood	<i>Gonystylus</i> spp.	Indonesia	500	No.	15
European ash lumber (2" x 4')	<i>Fraxinus excelsior</i>	Switzerland	352,000	BF	0

**Note:** Sign and Print your name, and write the date on both sections of the form.