

August 6, 2012

Docket No. APHIS-2012-0036,
Regulatory Analysis and Development,
PPD, APHIS,
Station 3A-03.8,
4700 River Road Unit 118,
Riverdale, MD 20737-1238

Dear Sir or Madam,

I am writing on behalf of the International Wood Products Association (IWPA) in response to the request by the Animal and Plant Health Inspection Service (APHIS) for public comment on Docket No. APHIS-2012-0036.

IWPA welcomes the opportunity to discuss the declaration aspect of the Lacey Act, as our industry forms a large subset of the American companies affected by the Declaration requirement. We applaud APHIS for evaluating whether the collection of information is necessary, whether the information has practical utility, and seeking approaches to minimize the overall burden on the regulated community.

Our concerns with the declaration have been consistent throughout our many comments to APHIS – we want a Declaration requirement that is fair, part of a sustainable system, and materially contributes to a reduction in illegal logging. Unfortunately, we have concerns and questions with all three points.

As our membership has been significantly impacted by the Declaration aspect of the Lacey Act, we are intimately familiar with the difficulties this data collection poses to industry and APHIS, and have engaged in dialogue with APHIS on the matter in the past. We have conducted surveys of our members on the burdens of time and money required to submit the declaration (which are included in our comments to Docket No. APHIS-2010-0093), a selection of which is quoted below.

“Sixty-seven percent of respondents pay a fee with each declaration filed. The average cost is \$27 and the most frequently quoted price is \$25. Our members indicate they file 378 declarations on average a year, with the range between 7 - 1500 annual declarations per company [...] Astonishingly, 21 % of importers have made this decision [outsource their brokerage duties solely because of the Lacey Act]

The preparation time for filling out the first declaration is daunting, averaging 37 hours [...] Ultimately, the total reported costs of the Lacey declaration, from costs directly associated with each filing and the expanded staffing needed to fulfill the requirements is between \$15,000 and \$150,000 per import company.”

We also continue to believe the APHIS estimate of 0.48 hours is significantly understated. As the comments from the National Marine Manufacturers Association (NMMA) state in reference to Docket No. APHIS-2008-0136 show:

The information required in the Plant and Plant Product Declaration Form is not information that is readily available to most importers. The typical importer of either a finished manufactured product or an input to be included in a product to be manufactured in the United States does not have firsthand knowledge of the information requested in this form, [...] In order to obtain this information, an importer will have to make numerous requests to their entire supply chain. In the case of composite products [...] there will be multiple species and countries of harvest. [...] When you factor in all the components of the supply chain who must respond to the importer's inquiries in order to complete one declaration form, the information collection burden should be ten-fold of the APHIS estimate."

The NMMA comments show that IWPA is not alone in discovering that the import declaration brings a significant cost to bear on importers of products covered by the phase-in schedule.

It also troubles our members that the phase-in schedule for the declaration was seemingly driven not by the goal to address illegal logging, but because the system as required by the statute was unworkable from the beginning. By APHIS's own admission the few tariff codes currently covered are proving overwhelming to government, leading few to believe any further development is practical.

While APHIS staff has been very proactive in working with importers to ease the process, the fact remains that there are numerous issues with the Declaration system. The data lines can be insufficient for larger or more complex items and the filing fees can quickly add a substantial cost to importation. Finally, and most significantly, there has been no data collected or produced as to the effectiveness of the declaration; no proof, as to whether the existence of the declaration is actually contributing to the fight against illegal logging. It is IWPA's opinion that such a costly and burdensome requirement ought to have practical value to government and/or the marketplace.

Our members are working diligently to comply and are enduring the tremendous costs associated with this process. Barring the outright elimination of the Declaration (or at least temporary hold until a system can be developed to meet the statute's intent), we respectfully request that measures be taken to bring the Declaration in line with the Lacey Act's intended purpose without causing excessive and unnecessary costs to the regulated community.

One such example would be for companies covered by the Declaration requirement to keep the import paperwork and provide it on demand to the appropriate agency. IWPA feels this would go a long way towards lessening the financial and human resource burdens placed on both the importing companies and APHIS.

Currently, many examples of this type of system can be seen in the Consumer Products Safety Commission (CPSC), Trade Preference Claims under Customs and Border Protection, Wood Packing Material (WPM) certificates under the Department of Agriculture, and many others. The Declaration would still be completed, but by being able to keep this form on file rather than submitting it, companies would save a significant filing fee.

We wish to emphasize that the 'on-demand' option would still require the Declaration data to be captured. Any company not producing this information upon request would of course be subject to penalties, and this would in no way reduce the ability of the government to pursue bad actors. Those that say the Declaration's real value is simply the act of asking questions should welcome this proposal.

To be clear, IWPA is strongly committed to the goals of the Lacey Act. IWPA has also been consistent in our comments - we feel the Declaration is not fulfilling its promised aims and is consuming precious government and private sector resources that could be better used in the fight against illegal logging. APHIS must assure the Declaration requirement is fair, part of a sustainable system, and materially contributes to a reduction in illegal logging.

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