



April 6, 2009

Regulatory Analysis and Development
Animal and Plant Health Inspection Service
Station 3A-03.8
4700 River Road Unit 118
Riverdale, MD 20737-1238

Dear Sir or Madam:

The Joint Industry Group (JIG) is pleased to file comments in relation to Docket Number APHIS-2008-01 regarding implementation of the revised Lacey Act provisions, which was published in the February 3, 2009, issue of the Federal Register. JIG understands the need to protect wildlife and conserve natural resources. Nonetheless, we harbor strong concerns about the impact several provisions of the revised Lacey Act will have on the U.S. and international business community.

JIG is a coalition of importers, exporters, shippers, carriers, customs brokers, ocean transportation intermediaries, trade associations, service providers and law firms with an active involvement in global commerce. JIG frequently engages Congress and the Administration on a variety of international trade-related issues. We work particularly closely with Congress and the Department of Homeland Security to promote international trade policy that reflects the needs of both government and the private sector.

While JIG applauds efforts to protect wildlife, the Lacey Act includes numerous elements that will create extensive problems for the international trade community and introduce considerable burdens at a time when our country's businesses are struggling mightily to remain competitive. Our feedback on the February 3 Federal Register notice is included below.

General Support for Phased-In Implementation

JIG commends APHIS on its plan to gradually implement the revised Lacey Act requirements. This phased-in approach will allow the trade community to implement some of the less strenuous portions of the Lacey Act immediately, using those lessons and the additional time to comply with more difficult portions of the regulations. We also compliment APHIS for extending the length of each phase from 3 to 6 months and specifying a list of affirmative Harmonized Tariff Schedule headings and subheadings of certain chapters for inclusion in each phase.

Difficulty Identifying Origin and/or Species of Imported Products

In many cases, it will be extremely difficult to identify the origin and/or species of imported products on declarations. As presently constituted, the Lacey Act requirements will force importers to provide a list of all possible species and/or countries from which the product was harvested. In these instances, the list of possible countries and/or species from which the products originated could be excessive. As such, the value they provide for analysis will be minimal or non-existent.

Items and Entries Specified for Exemption



Many of the products that currently fall under the jurisdiction of the revised Lacey Act requirements will impose such onerous burdens on the trade community that compliance will be nearly impossible. We also understand that APHIS currently plans to enforce declaration requirements for only commercial entries under those HTS categories specified in the Federal Register notice. Nonetheless, JIG supports and respectfully requests a formalized list of exempted items that includes the following:

- Articles in Chapter 98, HTSUS
- Antiques
- Products made with sawdust and other composite materials
- Products containing De minimis amounts of plant material
- Used products and products made from reclaimed or recycled plant material
- Other products containing plant materials whose origin or species cannot be identified
- Personal shipments in carried baggage unless they violate CITES or another law (e.g. pre-Columbian artifacts, etc.)
- Packaging materials

Appreciation for Transparent Administrative and Enforcement Procedures

JIG's membership appreciates the transparent and open manner in which the revised Lacey Act requirements and implementation schedule have been developed to date. We urge APHIS to continue making the process interactive. Further, we ask that information concerning declaration requirements when species or origin is not known will be shared with the trade community.

Blanket Declaration

Currently, the import declaration is a per shipment requirement. JIG supports the adoption of a blanket declaration, which would alleviate some of the burden to industry.

Prompt Release in Absence of Information Supporting Violations

Full compliance with revised Lacey Act requirements will require significant operational adjustments by the trade community. Mistakes will inevitably be made, and some information will not be known in all cases. As such, JIG supports the prompt release of all imported goods unless there is clear information that supports a real violation. If some information is missing, but the paperwork does not indicate anything abnormal, JIG believes APHIS should exercise restraint and opt to minimize actions that are not clearly warranted.

The Lacey Act serves an important purpose, but it must not be administered in such a manner that U.S. businesses are rendered non-competitive as a result of onerous requirements with which they find it difficult to comply. We appreciate the opportunity to comment on this issue, and we look forward to providing continued trade community perspective as this effort continues.

Best Regards,

Jim Clawson, Secretariat
Joint Industry Group