

Desk Officer for Agriculture  
Office of Information and Regulatory Affairs  
Office of Management and Budget (OMB)  
New Executive Office Building  
725 17<sup>th</sup> St., NW  
Washington, DC 20502

Re: Lacey Act Declaration Requirements: Plants and Plant Products (OMB Control Number 0579-0349)

Dear Sir or Madam,

The following views are submitted on behalf of the American Association of Exporters & Importers, American Home Furnishings Alliance, Express Association of America, The Hosiery Association, International Wood Products Association, National Association of Music Merchants, National Lumber & Building Material Dealers, National Marine Manufacturers Association, National Retail Federation, Window & Door Manufacturers Association in response to the request for public comment on *OMB Control Number: 0579-0349* published in the Federal Register on October 26, 2012 (77 Fed. Reg. 65359).

Our associations welcome the opportunity to provide our views on the declaration aspect of the Lacey Act, as the industries we collectively represent form a large subset of companies impacted by the Declaration requirement. We applaud APHIS for evaluating whether the collection of information is necessary or has practical utility, and for 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 on all three points.

Several associations listed below have been significantly impacted by the Declaration aspect of the Lacey Act, and as a group we are intimately familiar with the enforcement and compliance difficulties this data collection system poses both to industry and APHIS. As such, we have discussed these issues at length with APHIS on many occasions in the past.

The International Wood Products Association (IWPA) has conducted surveys of its members on the burdens of time and money required to submit the declaration. A full summary was included in IWPA comments to Docket No. APHIS-2010-0093, and an excerpt is included 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 [to 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), in reference to Docket No. APHIS-2008-0136, state:

*“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.”*

Both importers and domestic manufacturers show that the import Declaration brings a significant cost to bear on products covered by the phase-in schedule.

It also troubles our collected 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 Automated Broker Interface, through which Lacey Declarations are filed, provides limited data lines that are insufficient to allow electronic filing for even fairly simple products, like furniture. Importers are faced with the choice of either breaking up a single shipment into multiple entries, which adds

substantial cost to the importation process, or filing paper entries, which create an unnecessarily degree of inefficiency both for the importer and the regulatory agencies.

Finally, and most significantly, there has been no data collected or produced as to the effectiveness of the Declaration. There is no proof as to whether the existence of the Declaration is actually contributing to the fight against illegal logging. It is our opinion that such a costly and burdensome requirement ought to have practical value to government and/or the marketplace.

Our member companies are working diligently to comply with the Lacey Act, as amended, and are shouldering the tremendous costs associated with this process. Barring the outright elimination of the Declaration or a 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. We have long advocated for this sensible approach, which would ease the financial and human resource burdens placed on both the importing companies and APHIS.

Examples of this on-demand system can be seen in the Consumer Products Safety Commission (CPSC), Trade Preference Claims under Customs and Border Protection (CBP), and 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 until requested, rather than submitting it upon each importation, both companies and APHIS would save a significant amount of time and resources while still preserving effective enforcement and compliance.

We wish to emphasize that the 'on-demand' option would still require the Declaration data to be captured, and any company not producing this information upon request would be subject to penalties. 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.

We are all strongly committed to the goals of the Lacey Act, and we have been consistent in our comments individually. 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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