

Amendments to the Lacey Act Farm Bill 2008

“Section 8204. Prevention of Illegal Logging Practices”

Import Declaration Requirement Effective December 15, 2008



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Introduction

- Background
- New Requirements
- Commodities Potentially Affected
- Potential Impact
- Violations
- Current Status



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Background

- The Lacey Act
 - The nation's oldest wildlife protection statute
 - Originally enacted in 1900, amended several times
 - Anti-trafficking statute
 - Intended to protect wildlife and plants



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Examples of Wood Species of Concern

BIG-LEAF MAHOGANY (AKA:
Honduran or American
mahogany, *Swietenia*
macrophylla)

ORIGIN: Mexico, Central &
South American tropical forests

USES: High-quality furniture,
interior finishing, artisanry, boat
building, veneer

STATUS: Overexploited
wherever it occurs & facing
extensive habitat loss; on
CITES Appendix II since 2002



Wood Sample Photos: © Aziz Hirji and courtesy of
www.thewoodexplorer.com.

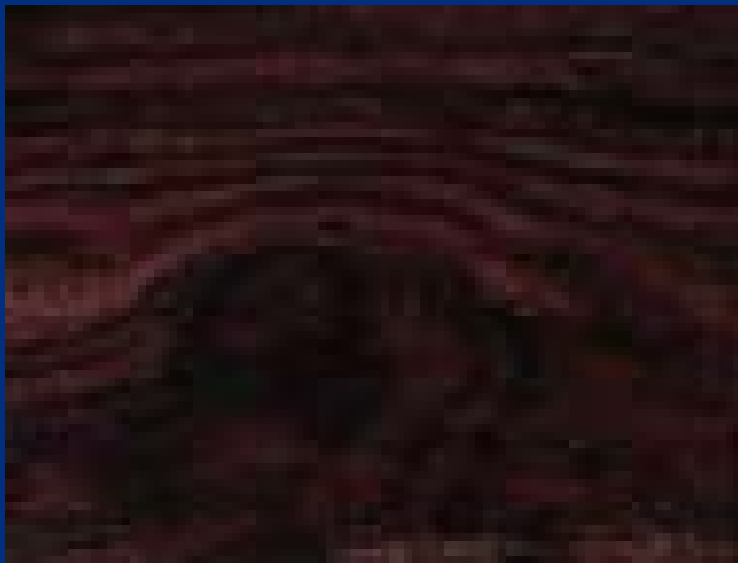


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Information courtesy of the Environmental Intelligence
Agency and the Natural Resources Defense Council. "Forest
Facts: Know the Forest and the Trees: A Consumer's Guide
to Buying Wood."



And...



Wood Sample Photos: © Aziz Hirji and courtesy of www.thewoodexplorer.com.

ROSEWOOD (AKA: Cocobolo, palisandro, *Dalbergia* spp.)

ORIGIN: American, African & Asian dry tropical forests.

USES: Artisanal carving, inlay work, musical instruments, tool & cutlery handles

STATUS: Considered threatened by logging wherever it occurs; unsuccessfully proposed for CITES Appendix II in 2007



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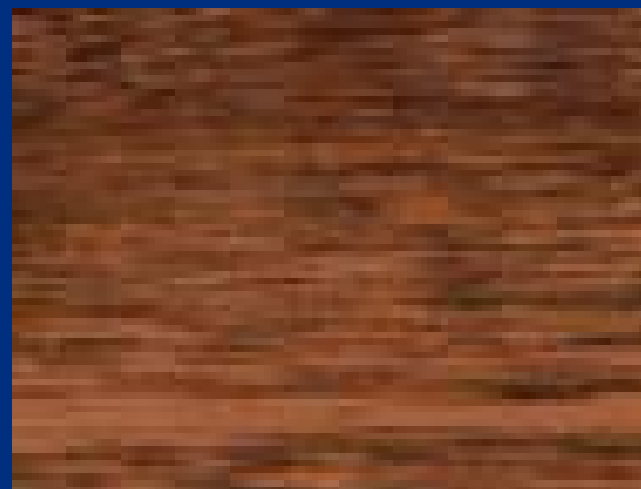
As well as...

IPÊ (AKA: Roble, pau d'arco, ironwood, *Tabebuia rosea*, *T. impetiginosa*, *T. serratifolia*)

ORIGIN: Central & South American tropical forests

USES: Residential decking, heavy construction, railroad ties, fence posts

STATUS: Heavily exploited in the Amazon to supply decking market as substitute for dwindling big-leaf mahogany supplies



Wood Sample Photos: © Aziz Hirji and courtesy of www.thewoodexplorer.com.



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More Wood Examples...

Name	Origin	Uses	Status
Teak (AKA: Teca, <i>Tectona grandis</i>)	Southeast Asia esp. India, Myanmar & Thailand	High-quality furniture, interior finishing, decking, ship building, veneer	Centuries of commercial logging and land clearing have sharply reduced habitat
Ramin (AKA: <i>Gonystylusbancanus</i> , <i>Gonystylus</i> spp.)	Southeast Asian peat swamps & lowland forests, esp. Indonesia & Malaysia	Baby cribs, picture frames, tool handles, pool cues, joinery, moldings, Flooring	Heavily logged in vulnerable peat swamps and protected areas; on CITES Appendix II since 2002
African Mahogany (AKA: Sapele, sipo, utile, <i>Entandrophragma</i> spp., <i>Khaya</i> spp.)	African tropical forests from Guinea to Angola	High-quality furniture, interior finishing, boat building, artisanry, veneer	Heavily logged throughout their natural ranges; species in this group face widespread commercial depletion
Caribbean Pine (AKA: Honduran pine, Nicaraguan pitch pine, ocote, <i>Pinus oocarpa</i> , <i>P. Caribea</i>)	Central American highland forests, esp. Honduras	Lightweight construction, broom handles, crates, telephone poles & posts, paper	Remaining natural stands are threatened by overexploitation & illegal logging in protected areas.



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Information courtesy of the Environmental Intelligence Agency and the Natural Resources Defense Council. "Forest Facts: Know The Forest and the Trees: A Consumer's Guide to Buying Wood."



Prevention of Illegal Logging Practices

- The Food, Conservation and Energy Act of 2008
 - *Section 8204. Prevention of Illegal Logging Practices*
 - Expands Lacey protection to broader range of plants and plant products
 - Also extends the statute's reach to encompass products, including timber, that derive from plants illegally harvested in the country of origin and brought to the United States
- Passed May 22, 2008 (effective immediately)



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The Lacey Act, as amended

- 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 in violation of the laws of a U.S. State, or any foreign law that protects plants.
- Lacey Act also makes it unlawful to make or submit any false record, account or label for, or any false identification of, any plant.



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In short...

- Under the amendment, it will be unlawful to import any plant or plant product without a declaration
- “Plant” means:
 - “Any wild member of the plant kingdom, including roots, seeds, parts or product thereof,...
 - “Including trees from either natural or planted forest stands”
- Declaration must be made at time of importation



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Declaration Contents

- Declaration must contain:
 - Scientific name of plant, including genus & species
 - Value
 - Quantity
 - Name of the country from which the plant was taken

NOTE: This country may be different from the imported item's country of origin

and (if applicable)

- Average % recycled material in the product



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What if Information is Unknown?

- If species varies and is unknown:
 - Declare the name of each species that may have been used to produce the product
- If the species is commonly taken from more than one country, and the country is unknown:
 - Declare the name of each country from which the plant may have been taken
- There is no “de minimis”



Exclusions

- Excluded from Lacey Act coverage
 - Common cultivars* (except trees)
 - Common food crops* and products thereof
 - Scientific specimens for research
 - Plants to remain planted or be replanted
 - Packaging material used to support, protect or carry another item (unless packaging IS the imported item)

**U.S. Departments of the Interior and Agriculture are working together to define these terms.*



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Exceptions to the Exclusions

- The exclusions do not apply if the plant is listed in
 - Convention on International Trade in Endangered Species of Wild Fauna and Flora
 - Endangered Species Act of 1973
 - Any State law that provides for the conservation of species...



Commodities Potentially Affected

- Most Obviously Affected
 - Lumber
 - Wood pulp
 - Paper
 - &
 - Paperboard



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And...

- Live plants, if listed under
 - CITES
 - The Endangered Species Act, or
 - Laws pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction



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But also...

- Furniture
- Umbrellas
- Resin
- Cigarettes

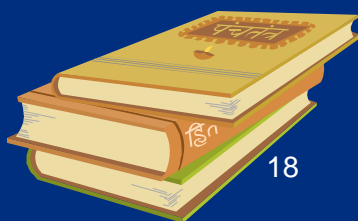


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And ...

- Printed matter
(including goods imported with printed materials)
- Boats, cars, trains, planes
- Musical instruments
- Pharmaceuticals
- Textiles



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And even...



In short, anything containing anything derived from plants
(unless excepted)



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Potential Impact: Time and Cost

- Information required at release; may result in
 - Delays
 - Inadmissibility
- Paper document would have negative impact on
 - Paperless releases
 - Remote Location Filing
- Trade may need to develop detailed tracking systems, including country of harvest (which may not be country of origin) to accurately complete the declaration
- Filers would need to re-program software



Violations

- The Lacey Act provides for both civil and criminal penalties for failure to comply.



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Federal Agencies Involved

- USDA's Animal and Plant Health Inspection Service (APHIS) has the lead
- Customs and Border Protection (CBP), APHIS (USDA), U.S. Trade Representative (USTR), Justice Department, US Fish and Wildlife (Department of the Interior) and other agencies are working together for implementation
- The Import Safety & Interagency Requirements Division, Office of International Trade, has been designated as the lead for CBP



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Current Status

- Reporting methodology not yet determined
 - Paper declaration will be available
 - Exploring automated solutions
- Working on phased-in implementation plan for declaration
- Conducting extensive outreach



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For More Information

- General Notice will be published in the Federal Register
- PPQ Plant Import Declaration Form and FAQ's are being developed
- Information will be posted at www.cbp.gov and www.aphis.usda.gov
- To look up genus/species, go to: <http://plants.usda.gov/classification.html>



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Maribeth Dunajski, Import Specialist

Import Safety & Interagency Requirements

Office of International Trade

Customs and Border Protection

Keith G. Miller, Assistant Director

Quarantine Policy Analysis and Support

Plant Protection & Quarantine (PPQ)

Animal & Plant Health Inspection Service (APHIS), USDA



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Animal and Plant Health
Inspection Service