retrospective review of rules is an important part of the regulatory process as long as it does not impose additional burdens to the agency and to the public. I urge the Commission as we move forward with finalizing rules to consider the goals of the Executive Orders.

[FR Doc. 2011–16430 Filed 6–29–11; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 357

[Docket No. APHIS–2010–0129]

RIN 0579–AD44

Implementation of Revised Lacey Act Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food, Conservation and Energy Act of 2008 amended the Lacey Act to provide, among other things, that importers submit a declaration at the time of importation for certain plants and plant products. The declaration requirements of the Lacey Act became effective on December 15, 2008, and enforcement of those requirements is being phased in. We are soliciting public comment on regulatory options that could address certain issues that have arisen with the implementation of the declaration requirement. These options include establishing certain exceptions to the declaration requirement and modifying the Declaration Form PPQ 505 to simplify the collection of information.

DATES: We will consider all comments that we receive on or before August 29, 2011.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2010-0129-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2010–0129, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2010-0129* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading Room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. George Balady, Staff Officer, Quarantine Policy, Analysis and Support, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1231; (301) 734–5783.

SUPPLEMENTARY INFORMATION:

Background

The Lacey Act (16 U.S.C. 3371 *et seq.*), first enacted in 1900 and significantly amended in 1981, is the United States' oldest wildlife protection statute. The Act combats trafficking in ''illegal'' wildlife, fish, or plants. The Food, Conservation and Energy Act of 2008, effective May 22, 2008, amended the Lacey Act by expanding its protection to a broader range of plants and plant products (Section 8204, Prevention of Illegal Logging Practices). 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, possessed, transported, or sold in violation of the laws of the United States, a State, an Indian tribe, or any foreign law that protects plants. The Lacey Act also now makes it unlawful to make or submit any false record, account, or label for, or any false identification of, any plant.

In addition, Section 3 of the Lacey Act, as amended, makes it unlawful, beginning December 15, 2008, to import certain plants, including plant products, without an import declaration. The declaration must contain the scientific name of the plant, value of the importation, quantity of the plant, and name of the country from which the plant was harvested.

On October 8, 2008, we published a notice in the **Federal Register** (73 FR 58925–58927, Docket No. APHIS 2008–0119) announcing our plans to begin phased-in enforcement of the declaration requirement on April 1, 2009, and providing dates and products covered for the first three phases of enforcement. We solicited comments on the proposed plan for phasing in enforcement for 60 days ending on December 8, 2008, and received 124 comments by that date. On February 3, 2009, we published a second notice in the **Federal Register** (74 FR 5911–5913, Docket No. APHIS 2008–0119) and provided a revised, more detailed phase-in schedule based on comments we received in response to the October notice. We solicited comment on the revised phase-in plan for 60 days ending on April 6, 2009, and received 41 comments by that date. The comments covered a range of topics, including the scope of the declaration requirement, the specific products covered in each phase, definitions of terms, length of phases, effects on trade and industry, and enforcement issues. On September 2, 2009, we published a third notice in the **Federal Register** (74 FR 45415–45418, Docket No. APHIS–2008–0119) and provided a further revised, more detailed phase-in schedule based on comments we received in response to the April notice as well as our experience with implementation to that date. We solicited comment on the revised phase-in plan for 60 days ending on November 2, 2009, and received 67 comments by that date.

We are publishing this advance notice of proposed rulemaking in order to seek information and develop regulatory options on the following issues:

1. Whether an exception from the declaration requirement for products containing minimal amounts of plant material could be developed that would be less burdensome while still carrying out the intent of the Lacey Act amendments;
2. How importers may comply with the declaration requirement when importing composite plant products whose genus, species, and country of harvest of some or all of the plant material may be extremely difficult or prohibitively expensive to determine;
3. How to accommodate products made of re-used plant materials, or plant materials harvested or manufactured prior to the 2008 Lacey Act amendments, and for which identifying country of harvest, and possibly species, would be difficult if not impossible; and
4. Whether groups of species commonly used in commercial production, could be given a separate name that could be entered on the declaration form as a type of shorthand identification of genus and species, such as the currently recognized ''SPF'' acronym for ''spruce, pine, and fir.''

Declaration Requirement for Shipments Containing Minimal Plant Materials

The Lacey Act does not explicitly address whether the declaration requirement is intended to apply to imported products that contain only minimal amounts of plant material. It is not ideal to apply this requirement to minimal amounts of non-listed (i.e., not

of conservation concern) plant materials contained in an otherwise non-plant product, such as wooden buttons on a shirt. Instead this issue might be efficiently addressed by describing a level at which the declaration requirement does not apply. Some commenters on our previous notices referred to this as a de minimis exception from the declaration requirement. Such a de minimis exception would be designed to ensure that the declaration requirement fulfills the purposes of the Lacey Act without unduly burdening commerce. Therefore, the exception would not apply to products containing plant material from species of conservation concern that are listed in an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 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.

We are considering the feasibility of defining a de minimis exception for products containing minimal amounts of plant material. We invite comment on defining a threshold in terms of the volume, weight, or value of plant material in each item being imported, or using some combination of all three measures. We also invite comment on whether the threshold of the plant material should be set at 2 percent, 5 percent, or 10 percent of a product, and whether that percentage of the plant content should be based on volume, weight, or value of the item being imported. We also seek public comment on whether the de minimis exception should be based on a certain percentage of just one of these characteristics (volume, weight, or value) of the entry, or whether it should be based on a combination of two or three of these characteristics.

Declaration Requirement for Goods With Composite Plant Materials

The Lacey Act's declaration requirements do not address the issue of how to comply with the declaration requirements when importing goods for which identifying all of the plant material in the product by genus and species is extremely difficult or prohibitively expensive; however, the comments received to date demonstrate that many composite plant products are manufactured in a manner that makes identification of the genus and species of all of the plant content difficult and perhaps prohibitively expensive.

One approach we are considering is to define the term ''composite plant materials'' and then formally recognize a de minimis exception from the declaration requirement for products containing such materials for the purposes of Section 3 of the Lacey Act. Using this approach, we might define ''composite plant materials'' as plant products and plant-based components of products where the original plant material is mechanically or chemically broken down and subsequently re-composed or used as an extract in a manufacturing process. Such a definition would also need to include exceptions for species listed in an appendix to CITES; as an endangered or threatened species under the Endangered Species Act of 1973; or pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.

We also invite comments on two possible approaches to incorporating such a definition into a de minimis exception from the declaration requirement for composite plant materials. In the first approach, if the plant product being imported is composed in whole or in part of a composite plant material, importers would have to identify the genus, species, and country of harvest of no less than a given percentage of the composite plant material content, measured on the basis of either weight or volume.

In the second approach, where the plant product being imported is composed in whole or in part of a composite plant material, the declaration would have to contain the average percent composite plant content, measured on the basis of either weight or volume, without regard for the species or country of harvest of the plant, in addition to information as to genus, species, and country of harvest for any non-composite plant content.

We invite comment on the possibility of defining composite plant products and implementing either of the approaches described above. We particularly invite comment on the possibility of using the *Genus* spp. format (for example, *Acer* spp.) for certain composite plant materials in limited circumstances both as to the scope of composite plant materials covered and the scope of the circumstances in which the format may be used for those limited materials. We also invite comment on possible percentages that could be used as a threshold for a de minimis exception from the declaration requirement for composite plant materials.

Declaration Requirement for Dated Products

We recognize that it may be difficult to determine and report the scientific name and/or country of harvest of plants in some products made of re-used plant materials, or harvested or manufactured prior to the passage of the Lacey Act Amendments of 2008. We do not believe that it was the intention of the amendments to prevent all such products from entering the United States. However, the Act as amended, including the plant import declaration requirement, applies to all imports of plants, plant parts, and products thereof as of the effective date of the amendments. We currently allow an importer to declare that the product being imported was manufactured prior to May 22, 2008, and that in the exercise of due care the genus, species, and/or country of harvest is unknown. The importer must still provide on the declaration form all known or reasonably knowable genus, species, and country of harvest information, and, as explained below, the person completing the declaration must certify that the declaration is correct to the best of his or her knowledge. An Animal and Plant Health Inspection Service-designated Special Use Code is provided to streamline the declaration of materials manufactured prior to the amendment. We anticipate that this approach would allow for trade in existing inventories and would diminish in use rapidly, ultimately applying largely to antique products, or those being re-sold. We invite comments on this practice.

Declaration Revision

Public comments and our experience implementing the declaration to date have drawn attention to the need to revise the declaration form to improve its effectiveness and remove unnecessary burdens associated with providing the required information. Comments on previous notices have drawn particular attention to the burden associated with providing scientific name, country of harvest, and plant quantity information for each plant component of products in a shipment, especially when the declaration is required for complex products, such as furniture. In response to these comments, we simplified the declaration so that the scientific name and country of harvest information need not be reported for each article or component of an article in an entry but can instead be provided for the entry as a whole. That is, the amount of each species, by country of harvest, is

required only in total for each Harmonized Tariff Schedule code. Importers are still permitted to report the scientific name information by article or component of article if that organizational structure is preferable. This has significantly reduced the lines of data entry required while causing little reduction in the enforcement utility of the information. However, the importer of record is still required to maintain records documenting the information used to calculate these total amounts for 5 years, should it be needed to facilitate an inspection or substantiate the totals provided.

The declaration could also be revised to substitute a new term in place of the term ''country of harvest,'' which experience has indicated is so similar to the Customs term ''country of origin'' as to be confusing. We are considering using the phrase ''harvest location (by country)'' to attempt to more clearly distinguish this information from the Customs concept of country of origin of the merchandise.

The declaration form could be further revised to accommodate the changes and proposals described above. These changes could include revision of the form to collect information required for composite materials (the percent composite material in the shipment, for which it is not possible to identify species and/or country of harvest). In addition, the revised form could have a box that would have to be checked when an importer needs to report goods manufactured prior to May 22, 2008, for which the importer cannot determine, in the exercise of due care, the genus, species and/or country of harvest of those plant products. The box would state that the plant products were manufactured prior to May 22, 2008, and that in the exercise of due care, the importer has been unable to determine the genus, species, and/or country of harvest information that is lacking on the declaration form.

We are soliciting comments on these possible changes to the declaration form.

Declaration of Genus and Species Using Species Groupings

We also recognize that the declaration requirement to identify the genus and species of all plants that may be contained in covered products may frequently require declarations to contain long lists of species. A number of commenters requested that recognized groups of common species often traded in combination in similar percentages in particular industries be allowed to be declared under a single shorthand definition. In a previous notice we specifically invited comments on the use of species groups, such as ''SPF'' for spruce, pine and fir, when such groups accurately describe the species that may be contained in the product(s) covered by the declaration. We received a number of comments supporting this approach and no comments in opposition. Therefore, we have begun to provide reference codes for such groups, along with the lists of species included in each group, on the APHIS Web site at *http://www.aphis.usda.gov/plant_health/lacey_act/.*

In addition, we invite proposals for additional groupings to be considered. Any proposal for a species group should contain the complete list of species to be included and additional information with which we can evaluate the extent to which the proposed group is currently represented in goods in international trade. Only those species group codes posted on the APHIS Web site can be used to meet the requirement to provide genus and species information on the plant import declaration.

The Web site also contains the text of the Lacey Act, as amended, the declaration form and enforcement schedule, guidance on compliance with the provisions of the Act, and links to previous **Federal Register** publications. The Web site will be updated as new materials become available.

Persons interested in receiving updates on APHIS's Lacey Act efforts should register for our stakeholder registry at *https://web01.aphis.usda.gov/PPQStakeWeb2.nsf* and select ''Lacey Act Declaration'' as a topic of interest.

This action has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Authority: 16 U.S.C. 3371 *et seq.;* 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 24th day of June 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–16406 Filed 6–29–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0649; Directorate Identifier 2011–NM–076–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model MD–11 and MD–11F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD would require replacing the rub strips of the tail fuel tank access door with new rub strips. This proposed AD was prompted by a report that the rub strips of the tail fuel tank access door were manufactured improperly. We are proposing this AD to prevent inadequate electrical bonding between the rub strips and the fuel access door, which can contribute to possible ignition of flammable fuel vapor in the tail fuel tank as a result of a lightning strike.

DATES: We must receive comments on this proposed AD by August 15, 2011.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.