



March 1, 2020

APHIS Finalizes de Minimis Exemption From Lacey Act Declaration Requirements for Plants

The Animal and Plant Health Inspection Service is finalizing a new de minimis exemption from Lacey Act declaration requirements for importers. Under the final rule, importers will not have to submit declarations for products with minimal amounts of plant material, with limitations also set on the total amount of plant material on an entry line. The final rule takes effect April 1.

“It may take some time for the de minimis exception to be implemented in ACE,” APHIS said. “APHIS will announce the availability of the disclaim code through the stakeholder registry, and importers may begin using the disclaim code for the de minimis exception as soon as it is available in ACE,” the agency said.

After considering two options in its July 2018 proposed rule, APHIS settled on the following de minimis level: “The plant material in a product represents no more than 5 percent of the total weight of the individual product unit, provided that the total weight of the plant material in an entry of products in the same 10-digit provision of the Harmonized Tariff Schedule of the United States does not exceed 2.9 kilograms.”

Species of conservation concern that are listed in an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as an endangered or threatened species under the Endangered Species Act, or pursuant to any state conservation law, are not to be eligible for the de minimis exemption. And while APHIS proposed two options for exemptions based on volume and value for instances when the weight of the plant material can’t be determined, the agency adopted neither proposal in its final rule. “Implementation of de minimis exceptions based on volume or value would present challenges. We have therefore decided not to implement de minimis exceptions based on volume or value at this time.” Also in a change from its proposed rule, APHIS will not codify a grace period of three business days from time of importation for the submission of Lacey Act declarations by importers.

Additional Charges to Vendor Not Excludable From Transaction Value, CBP Says

Fees and charges incurred by vendors after an international shipment of merchandise may not be excluded from the transaction value, CBP said in a recently released [ruling](#) dated Feb. 4. Furniture importer Bluestem Brands requested a CBP ruling on whether various fees that weren't included in the price actually paid or payable can be excluded from the transaction value as “costs incident to the international shipment of the merchandise.” CBP allows for some incidental shipment costs to be excluded from the transaction value.

Specifically, Bluestem asked about “document amendment charges, detention charges, switched bill of lading fees, and change of vessel fees,” which were a result of “delays in returning the loaded containers back to the Port for the originally intended vessel.” When the vendor is hit with such fees, “there is no change to the merchandise cost on the company’s purchase orders and the charges are paid by the vendor,” it said. The freight forwarder invoices listed those fees, CBP said.

All purchase orders were free on board (FOB) and “all costs until the goods were on board the vessel were included in the price actually paid or payable for the merchandise,” the company said. But, “since the document amendment charges, detention charges, switched bill of lading fees, and change of vessel fees are not included in the price actually paid or payable, they may not be excluded as costs incident to the international shipment of the merchandise,” CBP said.

USTR Seeking Comments on Extending Third Section 301 Exclusions Past May 14

The Office of the U.S. Trade Representative is [requesting comments](#) on whether the set of tariff exclusions on Chinese imports on Section 301 List 1 that are set to expire May 14 should last another year, it said in a notice. The agency will start accepting comments on the extensions on March 12. The comments are due by April 12, it said. The USTR has granted extensions to only six exclusions so far.

OFFICE LOCATIONS

Moonachie, NJ (201-478-4600) * Long Beach, CA (562-435-2327) * Schaumburg, IL (630-860-0782) * Jacksonville, FL (904-240-3183)
Hong Kong • Shenzhen • Guangzhou • Shanghai • Ningbo • Nanjing • Dalian • Tianjin • Qingdao • Xiamen

DOMESTIC CARGO OPERATIONS

Kearny, NJ (201) 772-560

3PL LOCATIONS

City of Industry, CA * Joliet, IL * Kearny, NJ (Central Ops)

Modi, Trump Vague on GSP Restoration During Press Event in India

At a press event during President Donald Trump's visit to India, both he and Prime Minister Narendra Modi were vague on how trade tensions might be eased between the two countries. A senior administration official said before the trip that India's announcement of higher tariffs precluded a mini-deal that would have restored India to the Generalized System of Preferences benefits program.

Trump said he'd been talking with Modi about how to forge an economic relationship "that is fair and reciprocal. Our teams have made tremendous progress on a comprehensive trade agreement and I'm optimistic we can reach a deal that will be of great importance to both countries." He said U.S. exports to India are up nearly 60 percent since he took office.

Commerce Finalizes New Procedures for CV Duties on Currency Undervaluation

The Commerce Department is amending its regulations to provide for the imposition of countervailing duties to address currency undervaluation, it said in a [final rule](#). The changes take effect in 60 days, meaning that all investigations, administrative reviews or other proceedings that begin on or after April 6 could result in the imposition of CV duties for currency manipulation.

Commerce made minor changes from a proposed rule on the subject it issued in May, including adding more detail to the regulations themselves on the new procedures. Under the approach finalized by Commerce's rule, the agency will consider real effective exchange rates to determine the extent to which a currency is undervalued, and seek the Treasury Department's formal, non-binding evaluation on whether the foreign government's actions were responsible for the undervaluation.

If Commerce finds the undervaluation resulted from government action, Commerce will then potentially consider currency exchanges by the country's international traders to be a subsidy, because they'd receive more domestic currency in return for their exchanges of U.S. dollars than they otherwise should have. Commerce will look at each individual exporter's currency exchanges, and specifically the amount of additional domestic currency received in exchanges due to undervaluation. It will add the currency subsidy amount to the exporter's overall CV duty rate.

USTR Asks for GSP Country Review Requests, CNL Waiver Requests, Product Requests

The Office of the U.S. Trade Representative is [open](#) to a panoply of requests related to the Generalized System of Preferences benefits program, with a deadline of the end of the day March 26 for petitions. Parties can ask USTR to modify the GSP status of countries because of those countries' practices; argue for or against GSP eligibility for products (either currently covered by GSP or not); argue against de minimis waivers for specific products; or argue for Competitive Need Limit (CNL) waivers. Import statistics related to CNLs, de minimis waivers and product redesignations can be found at the USTR [website](#). De minimis waivers do not need a petition to be granted. If CNL waivers are not granted for the products on the list, they will be removed from eligibility Nov. 1.

FDA Says VQIP Application Portal Open for FY 2021

The Food and Drug Administration's portal for Voluntary Qualified Importer Program applications for fiscal year 2021 has been open since Jan. 1, FDA said on its [website](#). "VQIP provides expedited review and importation of human foods into the United States for participating importers who achieve and maintain a high level of control over the safety and security of their supply chains," FDA said. "The portal will remain open until May 31, 2020."

FDA Extends Comment Period on Proposal to Require Testing by Accredited Labs to Prove Admissibility

The Food and Drug Administration is [extending](#) the comment period on its proposal for a new accreditation scheme for food testing laboratories that would require importers to use accredited laboratories in some circumstances, including getting food they import off import alerts and proving admissibility of food that is initially refused admission. The comments are due April 6.

FDA Releases Guide on Nutrition Facts Labeling

The Food and Drug Administration on Feb. 3 released a new [small entity compliance guide](#) on recent changes to FDA requirements for nutrition and supplement facts labeling. A 2016 final rule amended FDA's labeling regulations to include new requirements for displaying added sugars, as well as updates to daily recommended values, among other changes. Compliance with the new labeling standards is required by Jan. 1, 2020, or Jan. 1, 2021, depending on company size.

OFFICE LOCATIONS

Moonachie, NJ (201-478-4600) * Long Beach, CA (562-435-2327) * Schaumburg, IL (630-860-0782) * Jacksonville, FL (904-240-3183)
Hong Kong • Shenzhen • Guangzhou • Shanghai • Ningbo • Nanjing • Dalian • Tianjin • Qingdao • Xiamen

DOMESTIC CARGO OPERATIONS

Kearny, NJ (201) 772-560

3PL LOCATIONS

City of Industry, CA * Joliet, IL * Kearny, NJ (Central Ops)