

Document Information

Reference ID	RD-1287.1	Issue Date	9/7/2011
Status	Approved	Description	CGS 150 U.S. Lacey Act Specification (authored and controlled by 3M Sourcing)
Alternate ID	CGS 150		
Superseding ID			
Superseded By		Issue Category	New Issue
Author	Jill Buss	Reason for Issue	New Issue
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Corporate General Specification

U.S. Lacey Act Specification

Description: U.S. Lacey Act Specification
Specification No: 150
Owner: Sourcing Operations

Status: Issued
Approved Date: August 4, 2011
Supersedes: N/A

SCOPE: This specification establishes the requirements for complying with the United States Lacey Act Amendments of 2008 (“Lacey Act”). The Lacey Act prohibits the purchase, sale, transport, acquisition, import, export or receipt in interstate or foreign commerce of products or product packaging made from wood, paper, wood fiber or other plant materials, with certain limited exceptions, if the plant material was illegally sourced in its country of origin. The Lacey Act also prohibits false labeling, accounts or records of any plant covered by the Act, and requires U.S. import declarations for certain categories of products made from wood or other plant materials. This specification applies to all materials, parts, components, products and product packaging (whether finished or semi-finished) that contain “Plant or Plant material” as these terms are defined in this specification.

1.0 DEFINITIONS:

“Due Care”: Means the degree of care that a reasonably prudent person would exercise under the same or similar circumstances to assure compliance with the law.¹

“Illegally Sourced”: Means illegally harvesting a plant in violation of the laws of the United States, a U.S. state or Indian tribe, or a foreign country. This includes plants that in violation of any U.S. or foreign laws are stolen, taken from a park, forest reserve or other officially protected or designated area, taken without or contrary to required authorization, possessed, taken, transported, or sold without payment of applicable taxes, royalties or stumpage fees required for the plant by any law or regulation of any State or any foreign law, or taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any state or any foreign law governing the export or transshipment of plants, including but not limited to log export bans.

“Lacey Act”: Refers to the U.S. Lacey Act, including the Lacey Act Amendments of 2008.

“Plant or Plant material”: Means any wild member of the plant kingdom, including roots, seeds, parts or products thereof, and including wood/trees from either natural or planted forest stands, with the exceptions listed in Section 3.0 of this Specification.

2.0 REQUIREMENTS:

¹ This is consistent with the definitions cited from the Lacey Act legislative history, in the April 2010 presentation “Lacey Act Primer,” from the USDA Animal and Plant Health Inspection Service (APHIS), available under the heading “Background” on the APHIS webpage listed in Section 5 References.

- 2.1 Except for the applications listed below in Section 3, “Exemptions,” any materials, parts, products, components and product packaging covered by this specification may not contain wood products or other plant material (including any derivative of plant material) that is Illegally Sourced. Seller must exercise due care to assure that the plant materials contained in product and product packaging covered by this specification and supplied to 3M are legally sourced, harvested and exported from their country of origin.
- 2.2 Suppliers may not make or submit any false record, account, or label for, or any false identification of any plant or plant product which has been or is intended to be imported, exported, sold, purchased, or received from any foreign country, or transported in interstate or foreign commerce. 16 U.S.C. § 3372(d).
- 2.3 Suppliers importing into the United States plant material, products or product packaging covered by the Lacey Act must file any applicable import declarations for those products, and will provide copies of these import declarations to 3M, at 3M’s request.
- 2.4 With respect to any of Supplier’s plant material, products or product packaging that is covered by the Lacey Act that will be imported by 3M and to which Lacey Act import declarations are applicable, Supplier will provide on its commercial invoice accompanying supplied products for customs purposes all information that may be requested by USDA APHIS in plant and plant product declaration forms (PPQ Form 505), including but not limited to plant scientific name (Genus and Species), country of harvest, quantity of plant material, unit of measure, and percent recycled material, in accordance with the USDA APHIS website, PPQ Form 505 and related Guidance on filing Lacey Act Declarations provided on that website. Supplier must include the information required in this Specification subsections 4.1.3.1 and 4.1.3.2 in cases in which the plant genus and species and/or country of harvest may vary.
- 2.5 Pursuant to 3M’s *Supply Chain Policies: EHS, Transportation, Labor/Human Resources and Supplied Materials*, found on 3M.com Partners and Suppliers, Suppliers are expected to adopt policies and management systems with respect to the Lacey Act and to require their suppliers to adopt similar policies and systems.

3.0 EXEMPTIONS:

- 3.1 Exceptions to the definition of “Plant” are as follows:
 - 3.1.1 Common cultivars (except trees), as defined under federal regulations.
 - 3.1.2 Common food crops (including roots, seeds, parts or products thereof), as defined more specifically under federal regulations.
 - 3.1.3 Scientific specimens of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that is to be used only for laboratory or field research, unless the plant is 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 US Endangered Species Act or a state law protecting threatened species.
 - 3.1.4 Any plant that is to remain planted or to be replanted, unless the plant is 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 US Endangered Species Act or a state law protecting threatened species.
- 3.2 Exemptions to the import declarations requirements include:
 - 3.2.1 Packaging material used exclusively to support, protect, or carry another item, unless the packaging material itself is the item of value being imported. This exemption for packaging material only applies for the import declaration requirement, not to other

requirements of the Lacey Act. Product packaging may not contain wood products or other plant material that is Illegally Sourced.

- 3.2.2 Paper and paperboard products made of recycled content do not need to name the plant species or country of origin of the recycled material; however, the importer must identify the average percent of recycled content as well as the species and country of origin information for any non-recycled plant material contained in the product.

4.0 VERIFICATION OF COMPLIANCE:

- 4.1 At 3M's request, suppliers will complete 3M plant material certification forms in which suppliers:
- 4.1.1 Certify/verify that the products or product packaging supplied to 3M do not contain any plant material Illegally Sourced in the country of origin.
 - 4.1.2 Certify/verify that supplier has exercised and at all times will continue to exercise due care to assure that the plant materials contained in products or product packaging supplied to 3M are legally sourced, harvested, exported from their country of origin, and legally imported (if applicable),
 - 4.1.3 Provide certification of each plant scientific name (genus and species), country of harvest, quantity of plant material (including any derivative thereof) and unit of measure contained in the product and product packaging.
 - 4.1.3.1 In cases in which the species of plant used to produce a plant product that is the subject of an importation varies, and the exact species used to produce the plant product may be unknown, the supplier must indicate this on the certification and must provide on the certification the name of each species of plant that may have been used to produce the plant product.
 - 4.1.3.2 In cases in which the species of plant used to produce a plant product that is the subject of an importation is commonly taken from more than one country, and the exact country from which the plant was taken and used to produce the product is unknown, the supplier must indicate this on the certification and must provide on the certification the name of each country from which the plant may have been taken.
 - 4.1.4 Provide the percentage of recycled material such product or product packaging contains (if the supplied product or product packaging is paper or paperboard); and, if the percentage of recycled material varies, the average percentage of recycled material used in the product or product packaging supplied to 3M.
- 4.2 Supplier must maintain records on Lacey Act compliance, including all plant material certifications and sourcing information regarding products and product packaging containing plant material provided to suppliers by their suppliers. At 3M's request, suppliers must make these records available to 3M. At the reasonable request of suppliers, 3M is willing to enter into mutually acceptable confidentiality agreements covering disclosure of these records to 3M.

5.0 REFERENCES:

U.S. Lacey Act, 16 U.S.C. §§ 3371- 3378

U.S. Department of Agriculture, APHIS website with guidance and information on Lacey Act implementation, including import declaration implementation schedule and frequently asked questions: http://www.aphis.usda.gov/plant_health/lacey_act/index.shtml

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