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New importing laws may affect retailers

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Most floor covering retailers do not think of themselves as importers, even if they ordered that new exotic flooring they saw at Surfaces. The retailer who purchased from a domestic manufacturer or the local distributor is certain he or she has nothing to do with imports. The fact is, however, each of these retailers may have obligations under recent legislation regarding protecting the environment by prohibiting the importation of wood, cork and other plant products that are illegally harvested.

The International Trade Commission (ITC) recently estimated that 50 percent of the hardwood floors sold in the United States are imported, and 20 percent of these imports are produced from illegally harvested materials. Dealers need to ensure compliance with the new Lacey Act requirements whether or not they import any of the products they sell.

Amendments to the Lacey Act are very broad and include lumber, wood pulp, paper, gums, resins, saps, cork and most other conceivable materials that can be made from trees and plants. As a result, not only hardwood floors, but potentially laminates, particle boards, glues and other flooring products may be considered covered by the act. Intentional violations can result in fines of \$500,000 and five years in jail. For a mistake or unintentional violation, a fine of \$100,000 and one year in jail can be imposed.

To assist in enforcing the new law, importers will be required to file declarations that must identify: (1) the scientific name of the plant or tree species; (2) the value of the product; (3) the quantity imported; (4) the name of the country from which the plant was harvested; and (5) whether the product includes any recycled materials.

If the floor covering retailer directly imports products, such as bamboo, cork or hardwood flooring, it should begin to take steps to comply with the new laws by:

- ▶ Include in the purchase agreement or order form

that the foreign supplier will provide all of the necessary information to complete the Lacey declaration;

- ▶ Have the foreign supplier certify that the material is not harvested in violation of any local laws or requirements;

- ▶ Document all steps the company takes to ensure that the products are not manufactured from illegally harvested wood or plants;

- ▶ Include in the purchase agreement or order form a provision that your supplier will "hold harmless, indemnify and defend" your company for any violations of the Lacey Act or any inaccurate information provided by the supplier.

If you are not an importer, you may not even be aware that materials you are buying were manufactured overseas or include raw materials that were harvested overseas. Nonetheless, you need to take appropriate precautions. The retailer who buys from a domestic manufacturer or supplier should take the following precautions:

- ▶ Include in the purchase agreement or order form that the distributor or manufacturer is responsible for obtaining all materials under the Lacey Act and is required to provide you with a copy of the Lacey Act filings.

- ▶ Require the distributor or manufacturer to certify that the products do not contain any material from illegally harvested plants or trees or any endangered plant or tree.

A retailer cannot simply avoid responsibility under the Lacey Act by passing it on to the supplier. The retailer can, however, minimize the risks of violation and show that he has taken appropriate steps to ensure compliance by taking these precautions.

If a floor covering dealer believes a competitor is selling illegal wood products, it can report it to the Department of Agriculture's Animal Plant and Health Inspection Service, the Fish and Wildlife Service, the U.S. Customs and Border Protection or the ITC. **FCW**