**24.25 Lacey Act—False Labeling of Fish, Wildlife, or**

**Plants (16 U.S.C. §§ 3372(d), 3373(d)(3))**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with violating Sections 3372 and 3373 of Title 16 of the United States Code. For the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly [made] [submitted] a false [[record concerning] [account concerning] [label for] [identification of]] [[fish] [wildlife] [plants]]; [and]

Second, the [[fish] [wildlife] [plants]] [[had been] [were intended to be]] [[imported] [exported] [transported] [sold] [purchased] [received] from a foreign country] [transported in interstate or foreign commerce] [; and]

[Third, the defendant’s [making of] [submission of] a false [[record concerning] [account concerning] [label for] [identification of]] [[fish] [wildlife] [plants]] involved the [sale or purchase of] [offer of sale or purchase of] [commission of an act with intent to sell or purchase] the [fish] [wildlife] [plants] with a market value greater than $350].

A defendant acts knowingly if [he] [she] is aware of the act and does not act through ignorance, mistake, or accident. You may consider evidence of the defendant’s words, acts, or omissions, along with all the other evidence, in deciding whether the defendant acted knowingly.

**Comment**

This instruction is for use in any case involving a violation of 16 U.S.C. § 3373(d)(3). Under that section of the Lacey Act, criminal liability is premised on a finding of a violation of 16 U.S.C. § 3372(d) (false labeling).

The third element should be added only if the defendant is accused of violating 16 U.S.C. § 3373(d)(3)(A)(ii). If the jury finds the government proved only the first and second elements, the defendant may be found guilty of 16 U.S.C. § 3373(d)(3)(A)(I) (felony importation of fish, wildlife or plants) or of 16 U.S.C. § 3373(d)(3)(B) (misdemeanor false labeling).

The scienter required for conviction under 16 U.S.C. § 3373(d)(3) requires the defendant “knowingly” violate 16 U.S.C. § 3372(d) prohibiting making or submitting a false label.

*See* Comment to Instruction 24.23 (Lacey Act—Commercial Activity in Illegally Taken Fish, Wildlife, or Plants) concerning the need for an instruction concerning a definition of “market value.”

For a definition of interstate commerce or foreign commerce, *see* 18 U.S.C. § 10.