

the facility. If the wood chips or bark chips are to be used for mulching or composting, they must first be fumigated in accordance with § 319.40-7(f)(3), heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

(d) *Wood mulch, humus, compost, and litter.* Wood mulch, humus, compost, and litter may be imported if accompanied by an importer document stating that the wood mulch, humus, compost, or litter was fumigated in accordance with § 319.40-7(f)(3), heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

(e) *Cork and bark.* Cork and cork bark, cinnamon bark, and other bark to be used for food, manufacture of medicine, or chemical extraction may be imported if free from rot at the time of importation and subject to the inspection and other requirements of § 319.40-9.

[60 FR 27679, May 25, 1995; 60 FR 30157, June 7, 1995, as amended at 65 FR 21127, Apr. 20, 2000]

§ 319.40-7 Treatments and safeguards.

(a) *Certification of treatments or safeguards.* If APHIS determines that a document required for the importation of regulated articles is inaccurate, the regulated articles which are the subject of the certificate or other document shall be refused entry into the United States. In addition, APHIS may determine not to accept any further certificates for the importation of regulated articles in accordance with this subpart from a country in which an inaccurate certificate is issued, and APHIS may determine not to allow the importation of any or all regulated articles from any such country, until corrective action acceptable to APHIS establishes that certificates issued in that country will be accurate.

(b) *Debarking.* Except for raw lumber, no more than 2 percent of the surface of all regulated articles in a lot may retain bark, with no single regulated article retaining bark on more than 5 percent of its surface. For raw lumber, debarking must remove 100 percent of the bark.

(c) *Heat treatment.* Heat treatment must be performed only at a facility where APHIS or an inspector authorized by the Administrator and the national government of the country in which the facility is located has inspected the facility and determined that its operation complies with the standards of this paragraph. Heat treatment procedures may employ steam, hot water, kilns, exposure to microwave energy, or any other method (e.g., the hot water and steam techniques used in veneer production) that raises the temperature of the center of each treated regulated article to at least 71.1 °C and maintains the regulated article at that center temperature for at least 75 minutes. For regulated articles heat treated prior to arrival in the United States, during the entire interval between treatment and export the regulated article must be stored, handled, or safeguarded in a manner which excludes any infestation of the regulated article by plant pests.

(d) *Heat treatment with moisture reduction.* (1) Heat treatment with moisture reduction may employ:

(i) Kiln drying conducted in accordance with the schedules prescribed for the regulated article in the Dry Kiln Operator's Manual, Agriculture Handbook 188, which is incorporated by reference at § 300.1 of this chapter; or,

(ii) Dry heat, exposure to microwave energy, or any other method that raises the temperature of the center of each treated regulated article to at least 71.1 °C, maintains the regulated articles at that center temperature for at least 75 minutes, and reduces the moisture content of the regulated article to 20 percent or less as measured by an electrical conductivity meter.

(2) For regulated articles heat treated with moisture reduction prior to arrival in the United States, during the entire interval between treatment and export the regulated article must be stored, handled, or safeguarded in a manner which excludes any infestation of the regulated article by plant pests.

(e) *Surface pesticide treatments.* All United States Environmental Protection Agency registered surface pesticide treatments are authorized for regulated articles imported in accordance with this subpart, except that

Pinus radiata wood chips from Chile must be treated in accordance with §319.40-7(e)(2). Surface pesticide treatments must be conducted in accordance with label directions approved by the United States Environmental Protection Agency. Under the following circumstances, surface pesticide treatments must also be conducted as follows:

(1) *Heat treated logs.* When used on heat treated logs, a surface pesticide treatment must be first applied within 48 hours following heat treatment. The surface pesticide treatment must be repeated at least every 30 days during storage of the regulated article, with the final treatment occurring no more than 30 days prior to departure of the means of conveyance that carries the regulated articles to the United States.

(2) *Pinus radiata wood chips from Chile.* When used on *Pinus radiata* wood chips from Chile, a surface pesticide consisting of the following must be used: A mixture of a fungicide containing 64.8 percent of the active ingredient didecyl dimethyl ammonium chloride and 7.6 percent of the active ingredient 3-iodo-2-propynyl butylcarbamate and an insecticide containing 44.9 percent of the active ingredient chlorpyrifos phosphorothioate. The wood chips must be sprayed with the pesticide so that all the chips are exposed to the chemical on all sides. During the entire interval between treatment and export, the wood chips must be stored, handled, or safeguarded in a manner that prevents any infestation of the wood chips by plant pests.

(f) *Methyl bromide fumigation.* The following minimum standards for methyl bromide fumigation treatment are authorized for the regulated articles listed in paragraphs (f)(1) through (f)(3) of this section. Any method of fumigation that meets or exceeds the specified temperature/time/concentration products is acceptable. Following fumigation, fumigated products must be aerated to reduce the concentration of fumigant below hazardous levels, in accordance with the Treatment Manual and label instructions approved by the U.S. Environmental Protection Agency.

(1) *Logs—(i) T-312 schedule.* The entire log and the ambient air must be at a

temperature of 5 °C or above throughout fumigation. The fumigation must be conducted using schedule T-312 contained in the Treatment Manual. In lieu of the schedule T-312 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 240 g/m³ with exposure and concentration levels adequate to provide a concentration-time product of at least 17,280 gram-hours calculated on the initial methyl bromide concentration.

(ii) *T-404 schedule.* The entire log and the ambient air must be at a temperature of 5 °C or above throughout fumigation. The fumigation must be conducted using schedule T-404 contained in the Treatment Manual. In lieu of the schedule T-404 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 120 g/m³ with exposure and concentration levels adequate to provide a concentration-time product of at least 1920 gram-hours calculated on the initial methyl bromide concentration.

(2) *Lumber.* The lumber and the ambient air must be at a temperature of 5 °C or above throughout fumigation. The fumigation must be conducted using schedule T-404 contained in the Treatment Manual. In lieu of the schedule T-404 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 120 g/m³ with exposure and concentration levels adequate to provide a concentration-time product of at least 1920 gram-hours calculated on the initial methyl bromide concentration.

(3) *Regulated articles other than logs or lumber.* (i) If the ambient air and the regulated articles other than logs or lumber are at a temperature of 21 °C or above throughout fumigation, the fumigation must be conducted using schedule T-404 contained in the Treatment Manual. In lieu of the schedule T-404 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 48 g/m³ with exposure and concentration levels adequate to provide a concentration-time product of at least 760 gram-hours calculated on the initial methyl bromide concentration.

(ii) If the ambient air and the regulated articles other than logs or lumber are at a temperature of 4.5–20.5 °C throughout fumigation, the fumigation must be conducted using schedule T-404 contained in the Treatment Manual. In lieu of the schedule T-404 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 120 g/m³ with exposure and concentration levels adequate to provide a concentration-time product of at least 1920 gram-hours calculated on the initial methyl bromide concentration.

(g) *Preservatives.* All preservative treatments that use a preservative product that is registered by the United States Environmental Protection Agency are authorized for treatment of regulated articles imported in accordance with this subpart. Preservative treatments must be performed in accordance with label directions approved by the United States Environmental Protection Agency.

[60 FR 27674, May 25, 1999, as amended at 64 FR 59604, Nov. 3, 1999; 65 FR 21128, Apr. 20, 2000]

§ 319.40-8 Processing at facilities operating under compliance agreements.

(a) Any person who operates a facility in which imported regulated articles are processed may enter into a compliance agreement to facilitate the importation of regulated articles under this subpart. The compliance agreement shall specify the requirements necessary to prevent spread of plant pests from the facility, requirements to ensure the processing method effectively destroys plant pests, and the requirements for the application of chemical materials in accordance with the Treatment Manual. The compliance agreement shall also state that inspectors must be allowed access to the facility to monitor compliance with the requirements of the compliance agreement and of this subpart. Compliance agreement forms may be obtained from the Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement, orally or in writing, whenever the inspector finds

that the person who entered into the compliance agreement has failed to comply with the conditions of the compliance agreement. If the cancellation is oral, the decision to cancel the compliance agreement and the reasons for cancellation of the compliance agreement shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to the Administrator within 10 days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. The Administrator shall grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal, as promptly as circumstances permit. If there is a conflict as to any material fact and the person whose compliance agreement has been canceled requests a hearing, a hearing shall be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

§ 319.40-9 Inspection and other requirements at port of first arrival.

(a) *Procedures for all regulated articles.*

(1) All imported regulated articles shall be inspected at the port of first arrival. If the inspector finds signs of plant pests on or in the regulated article, or finds that the regulated article may have been associated with other articles infested with plant pests, the regulated article shall be cleaned or treated as required by an inspector, and the regulated article and any products of the regulated article shall also be subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place before all applicable requirements of this subpart have been accomplished.

(2) Regulated articles shall be assembled for inspection at the port of first arrival, or at any other place prescribed by an inspector, at a place and time and in a manner designated by an inspector.

(3) If an inspector finds that an imported regulated article is so infested with a plant pest that, in the judgment of the inspector, the regulated article