

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 fu-

migation 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 cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(4) No person shall move any imported regulated article from the port of first arrival unless and until an inspector notifies the person, in writing or through an electronic database, that the regulated article:

(i) Is in compliance with all applicable regulations and has been inspected and found to be apparently free of plant pests;³ or,

(ii) Has been inspected and the inspector requires reinspection, cleaning, or treatment of the regulated article at a place other than the port of first arrival.

(b) *Notice of arrival; visual examination of regulated articles at port of first arrival.* (1) At least 7 days prior to the expected date of arrival in the United States of a shipment of regulated articles imported in accordance with this subpart, the permittee or his or her agent must notify the APHIS Officer in Charge at the port of arrival of the date of expected arrival. The address and telephone number of the APHIS Officer in Charge will be specified in any specific permit issued by APHIS⁴. This notice may be in writing or by telephone. The notice must include the number of any specific permit issued

³Certain regulated articles may also be subject to §§ 319.56 through 319.56-8, "Subpart—Fruits and Vegetables," or to the noxious weed regulations under part 360 of this chapter, or to Endangered Species Act regulations under parts 355 and 356 of this chapter and 50 CFR parts 17 and 23.

⁴A list of APHIS Officers in Charge may be obtained from the Administrator, c/o Port Operations, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737.