

States unless they are moving directly through the EAB-regulated area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs). If these articles are being moved through the regulated area between May 1 and August 31 or when the ambient air temperature is 40 °F or higher, they must be in an enclosed vehicle or completely covered to prevent access by the emerald ash borer.

(1) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a county or municipal regional county regulated for the emerald ash borer within a Province or Territory regulated by the Canadian Government for the emerald ash borer require a permit issued under §319.40-2(a) and must be accompanied by a certificate bearing an additional declaration that the articles in the shipment were:

(i) Debarked, and vascular cambium removed to a depth of 1.27 cm (½ inch) during the debarking process; or

(ii) Heat treated in accordance with §319.40-7(c). The phytosanitary certificate accompanying such articles must describe the treatment method employed.

(2) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a county or municipal regional county not regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer require a permit issued under §319.40-2(a) and must be accompanied by a certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county or municipal regional county where the emerald ash borer does not occur, based on official surveys.

(3) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a Province or Territory that is not regulated for the emerald ash borer must be accompanied by an importer document that certifies that the article originated in a county or municipal regional county free of the emerald ash borer.

(4) The importation of ash wood chips or bark chips larger than 1 inch diame-

ter in any two dimensions that originate in a county or municipal regional county regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer is prohibited.

(5) Ash wood chips or bark 1 inch or less in diameter that originate in an area regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer must be accompanied by a permit issued under §319.40-2(a) and a phytosanitary certificate with an additional declaration stating that the wood or bark chips in the shipment were ground to 1 inch (2.54 cm) or less in diameter in any two dimensions.

(6) Ash wood chips or bark chips that originate in a county or municipal regional county not regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer must be accompanied by a permit issued under §319.40-2(a), and a valid certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county or municipal regional county where the emerald ash borer does not occur, based on official surveys.

(7) Ash wood chips or bark chips that originate in a Province or Territory that is not regulated for the emerald ash borer must be accompanied by an importer document that certifies that the article originates in a Province or Territory free of the emerald ash borer.

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#### §319.40-6 Universal importation options.

(a) *Logs.* Logs may be imported if prior to importation the logs have been debarked in accordance with §319.40-7(b) and heat treated in accordance with §319.40-7(c). During the entire interval between treatment and export, the logs must be stored and handled in a manner which excludes any access to the logs by plant pests.

(b) *Lumber*—(1) *Heat treated or heat treated with moisture reduction.* Lumber that prior to importation has been heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d), may be imported in accordance with paragraphs (b)(1) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than solid wood packing materials) is permitted on the means of conveyance with the lumber, unless the lumber and the other regulated articles are in separate holds or separate sealed containers, or, if the lumber and other regulated articles are mixed in a hold or sealed container, all the regulated articles have been heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d). Lumber on the vessel's deck must be in a sealed container, unless it has been heat treated with moisture reduction in accordance with § 319.40-7(d).

(ii) If lumber has been heat treated in accordance with § 319.40-7(c), that fact must be stated on the importer document, or by a permanent marking on each piece of lumber in the form of the letters "HT" or the words "Heat Treated." If lumber has been heat treated with moisture reduction in accordance with § 319.40-7(d), that fact must be stated on the importer document, or by a permanent marking, on each piece of lumber or on the cover of bundles of lumber, in the form of the letters "KD" or the words "Kiln Dried."

(2) *Raw lumber.* Raw lumber, including solid wood packing materials imported as cargo, from all places except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer may be imported in accordance with paragraphs (b)(2) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than solid wood packing materials) is permitted on the means of conveyance with the raw lumber, unless the raw lumber and the other regulated articles are in separate holds or separate sealed containers. Raw lumber on the vessel's deck must be in a sealed container.

(ii) The raw lumber must be consigned to a facility operating under a compliance agreement in accordance with § 319.40-8 that requires the raw lumber to be heat treated in accordance with § 319.40-7(c) or heat treated with moisture reduction in accordance with § 319.40-7(d), within 30 days from the time the lumber is released from the port of first arrival. Heat treatment must be completed before any cutting, planing, or sawing of the raw lumber.

(c) *Wood chips and bark chips*—(1) *From Chile (pine) and South America (eucalyptus).* Wood chips from Chile that are derived from Monterey or Radiata pine (*Pinus radiata*) logs and wood chips from South America that are derived from temperate species of *Eucalyptus* may be imported in accordance with paragraph (c)(2) of this section or in accordance with the following requirements:

(i) The wood chips must be accompanied by a certificate stating that the wood chips meet the requirements in paragraphs (c)(1)(i)(A) through (c)(1)(i)(C) of this section.

(A) The wood chips were treated with a surface pesticide treatment in accordance with § 319.40-7(e) within 24 hours after the log was chipped and were retreated with a surface pesticide treatment in accordance with § 319.40-7(e) if more than 30 days elapsed between the date of the first treatment and the date of export to the United States.

(B) The wood chips were derived from logs from live, healthy, plantation-grown trees that were apparently free of plant pests, plant pest damage, and decay organisms, and the logs used to make the wood chips were debarked in accordance with § 319.40-7(b) before being chipped.

(C) No more than 45 days elapsed from the time the trees used to make the wood chips were felled to the time the wood chips were exported.

(ii) During shipment to the United States, no other regulated articles (other than solid wood packing materials) are permitted in the holds or sealed containers carrying the wood chips. Wood chips on the vessel's deck must be in a sealed container.

(iii) The wood chips must be consigned to a facility in the United States that operates under a compliance agreement in accordance with § 319.40-8. The following requirements apply upon arrival of the wood chips in the United States:

(A) Upon arrival in the United States, the wood chips must be unloaded by a conveyor that is covered to prevent the chips from being blown by the wind and from accidental spillage. The facility receiving the wood chips must have a procedure in place to retrieve any chips that fall during unloading.

(B) If the wood chips must be transported after arrival, the chips must be covered or safeguarded in a manner that prevents the chips from spilling or falling off the means of conveyance or from being blown off the means of conveyance by wind.

(C) The wood chips must be stored at the facility on a paved surface and must be kept segregated from other regulated articles from the time of discharge from the means of conveyance until the chips are processed. The storage area must not be adjacent to wooded areas.

(D) The wood chips must be processed within 45 days of arrival at the facility. Any fines or unusable wood chips must be disposed of by burning within 45 days of arrival at the facility.

(2) *From locations other than certain places in Asia.* Wood chips and bark chips from any place except places in Asia that are east of 60° east longitude and north of the Tropic of Cancer may be imported in accordance with this paragraph.

(i) The wood chips or bark chips must be accompanied by an importer document stating that the wood chips or bark chips were either:

(A) Derived from live, healthy, tropical species of plantation-grown trees grown in tropical areas; or

(B) Fumigated with methyl bromide 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).

(ii) During shipment to the United States, no other regulated articles (other than solid wood packing materials) are permitted in the holds or

sealed containers carrying the wood chips or bark chips. Wood chips or bark chips on the vessel's deck must be in a sealed container; *Except that:* If the wood chips or bark chips are derived from live, healthy, plantation-grown trees in tropical areas, they may be shipped on deck if no other regulated articles are present on the vessel and the wood chips or bark chips are completely covered by a tarpaulin during the entire journey directly to the United States.

(iii) The wood chips or bark chips must be free from rot at the time of importation, unless accompanied by an importer document stating that the entire lot was fumigated with methyl bromide 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).

(iv) Wood chips or bark chips imported in accordance with this paragraph must be consigned to a facility operating under a compliance agreement in accordance with § 319.40-8. The wood chips or bark chips must be burned, heat treated in accordance with § 319.40-7(c), heat treated with moisture reduction in accordance with § 319.40-7(d), or otherwise processed in a manner that will destroy any plant pests associated with the wood chips or bark chips within 30 days of arrival at 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.

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#### § 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 § 300.2 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 and wood chips from South America derived from temperate species of *Eucalyptus* 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