

require written notice to the owner of the safeguards to be followed by the owner. In prescribing safeguards, the relevant requirements of parts 319, 330, or 360 of this chapter and this part shall be considered. The safeguards prescribed shall be the minimum required to prevent plant pest or noxious weed dissemination. Destruction or exportation shall be required only when no less drastic measures are deemed by the inspector to be adequate to prevent plant pest or noxious weed dissemination. The inspector may follow administrative instructions promulgated for certain situations, or he may follow a procedure selected by him from administratively approved methods known to be effective in similar situations. In the case of aircraft that are contaminated with insect pests, only an insecticidal formulation, approved for use in aircraft, may be so applied as an emergency measure. If the application is not effective against the insect pests or if other pests must be safeguarded against, the inspector shall report the circumstances promptly to the Plant Protection and Quarantine Programs and receive instructions as to safeguards that will not have a deleterious effect on the structure of the aircraft or its operating equipment. In prescribing safeguards consideration will be given to such factors as:

- (i) The nature and habits of the plant pests known to be, or likely to be, present with the plants, plant products, soil, or other products or articles.
- (ii) Nature of the plants, plant products, plant pests, soil, or other products or articles.
- (iii) Nature of containers or other packaging and adequacy thereof to prevent plant pest or noxious weed dissemination.
- (iv) Climatic conditions as they may have a bearing on plant pest dispersal, and refrigeration if provided.
- (v) Routing pending exportation.
- (vi) Presence of soil.
- (vii) Construction or physical condition and type of carrier.
- (viii) Facilities for treatment in accordance with part 305 of this chapter, or for incineration or other destruction.
- (ix) Availability of transportation facilities for immediate exportation.

(x) Any other related factor which should be considered, such as intent to export to an adjacent or nearby country.

(c) *Disposal.* (1) If prohibited or restricted products or articles subject to this part are not safeguarded in accordance with measures prescribed under this part, or cannot be adequately safeguarded to prevent plant pest or noxious weed dissemination, they shall be seized, destroyed, or otherwise disposed of according to law. Whenever disposal action is to be taken by the inspector he shall notify the local Customs officer in advance.

(2) When a shipment of any products or articles subject to this part has been handled in accordance with all conditions and safeguards prescribed in this part and in the permit and by the inspector, the inspector shall inform the local Customs officer concerned of the release of such products or articles, in appropriate manner.

[25 FR 1929, Mar. 5, 1960, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 62 FR 65009, Dec. 10, 1997; 66 FR 21059, Apr. 27, 2001; 75 FR 4253, Jan. 26, 2010; 75 FR 68952, Nov. 10, 2010]

§ 352.11 Mail.

(a) *Transit mail.* (1) Plants, plant products, plant pests, noxious weeds, and soil which arrive in the United States in closed dispatches by international mail or international parcel post and which are in transit through the United States to another country shall be allowed to move through the United States without further permit than the authorization contained in this section. Notice of arrival shall not be required as other documentation meets the requirement for this notice.

(2) Inspectors ordinarily will not inspect transit mail or parcel post, whether transmitted in open mail or in closed dispatches. They may do so if it comes to their attention that any such mail or parcel post contains prohibited or restricted products or articles which require safeguard action. Inspection and disposal in such cases will be made in accordance with this part and part 330 of this chapter, and in conformity with regulations and procedures of the Post Office Department for handling transit mail and parcel post.

(b) *Importation for exportation.* Plants and plant products to be imported for exportation, by mail, will be handled under permit in accordance with Part 351 of this chapter.

[25 FR 1929, Mar. 5, 1960, as amended at 75 FR 68952, Nov. 10, 2010]

§ 352.12 Baggage.

Products or articles subject to this part which are contained in baggage shall be subject to the requirements of this part in the same manner as cargo.

§ 352.13 Certain conditions under which change of Customs entry or diversion is permitted.

When plants, plant products, plant pests, noxious weeds, and soil released for exportation, transshipment and exportation, or transportation and exportation, under this part, have met all applicable permit and other requirements for importation, including inspection and treatment, as provided in parts 319, 330, or 360 of this chapter, the form of Customs entry may be changed and the shipment may be diverted at any time to permit delivery of the products and articles to a destination in the United States, so far as the requirements in this part are involved. The Customs officer concerned at the original port of Customs entry shall be informed by the inspector that such release has been made and that such change of entry or diversion is approved under this part by appropriate endorsement of Customs documents.

[25 FR 1929, Mar. 5, 1960, as amended at 62 FR 65009, Dec. 10, 1997; 66 FR 21059, Apr. 27, 2001; 75 FR 68952, Nov. 10, 2010]

§ 352.14 Costs.

All costs incident to the inspection, handling, safeguarding, or other disposal of prohibited or restricted products or articles under the provisions in this part shall be borne by the owner. Services of the inspector during regularly assigned hours of duty at the usual places of duty shall be furnished without cost to the person requesting the services, unless a user fee is payable under § 354.3 of this chapter.

[56 FR 14844, Apr. 12, 1991]

§ 352.15 Caution.

In applying safeguards or taking other measures prescribed under the provisions in this part, it should be understood that inexactness or carelessness may result in injury or damage. It should also be understood by the owners that emergency measures prescribed by the inspector to safeguard against plant pest or noxious weed dissemination may have adverse effects on certain products and articles and that they will take the calculated risk of such adverse effects of authorized measures.

[25 FR 1929, Mar. 5, 1960, as amended at 75 FR 68952, Nov. 10, 2010]

§§ 352.16–352.28 [Reserved]

§ 352.29 Administrative instructions: Avocados from Mexico.

Avocados from Mexico may be moved through the United States to destinations outside the United States only in accordance with this section.

(a) *Permits.* Before moving the avocados through the United States, the owner must obtain a formal permit in accordance with § 352.6 of this part.

(b) *Ports.* The avocados may enter the United States only at the following ports: Galveston or Houston, Texas; the border ports of Nogales, Arizona, or Brownsville, Eagle Pass, El Paso, Hidalgo, or Laredo, Texas; or at other ports within that area of the United States specified in paragraph (f) of this section.

(c) *Notice of arrival.* At the port of arrival, the owner must provide notification of the arrival of the avocados in accordance with § 352.7 of this part.

(d) *Inspection.* The owner must make the avocados available for examination by an inspector. The avocados may not be moved from the port of arrival until released by an inspector.

(e) *Shipping requirements.* The avocados must be moved through the United States either by air or in a refrigerated truck or refrigerated rail car or in refrigerated containers on a truck or rail car. If the avocados are moved in refrigerated containers on a truck or rail car, an inspector must seal the containers with a serially numbered seal at the port of arrival. If the avocados are removed in a refrigerated truck or