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DEPARTMENT OF AGRICULTURE

**Animal and Plant Health
Inspection Service**



ANIMAL WELFARE: DEFINITION OF TERMS

**Standards and Regulations for
Transportation, Handling, Care and
Treatment in Connection therewith,
of Dogs, Cats, Rabbits, Hamsters,
Guinea Pigs, Nonhuman Primates and
Certain Other Warmblooded Animals**

RULES AND REGULATIONS

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—ANIMAL WELFARE

DEFINITION OF TERMS, REGULATIONS AND STANDARDS

Standards and Regulations for Transporta- tion, Handling, Care and Treatment in Connection Therewith, of Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, Non- human Primates and Certain Other Warmblooded Animals

AGENCY: Animal and Plant Health In-
spection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations and standards under the Animal Welfare Act concerning the transportation in commerce and the handling, care, and treatment in connection therewith, of certain warm-blooded animals. This action is required by the Animal Welfare Act Amendments of 1976 and is intended to assure the humane handling, care, and treatment of certain animals transported in commerce.

EFFECTIVE DATE: September 19, 1977.

**FOR FURTHER INFORMATION CON-
TACT:**

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SUPPLEMENTARY INFORMATION: On March 18, 1977, the Animal and Plant Health Inspection Service (APHIS) published proposed changes and additions to Parts 1, 2, and 3 of Subchapter A, Chapter 1, Title 9 of the Code of Federal Regulations (42 FR 15210) to (1) amend the regulations under the Act (9 CFR 1.1) to add new definitions for "primary conveyance" and "transporting device"; (2) provide new and revised standards (9 CFR 3.1 et seq.) regarding transportation, and handling, care, and treatment in connection therewith, of certain warmblooded animals, in commerce, and (3) to amend the regulations (9 CFR 2.100) to require carriers and intermediate handlers to comply with the standards governing transportation of certain warmblooded animals, in commerce, and in their handling, care, and treatment in connection therewith.

A total of 172 comments were received within the comment period. Most comments received were from three major interest groups, i.e., pet animal breeders, carriers and intermediate handlers, and humane groups. Many of the comments raised questions or made suggestions which, because of their validity, warranted a number of changes from the proposed regulations and standards. Certain other editorial changes were also made for accuracy and clarification.

DISCUSSION OF COMMENTS

CONSIGNMENTS TO CARRIERS AND INTERMEDIATE HANDLERS

APHIS proposed that dogs, cats, rabbits, guinea pigs, hamsters, nonhuman primates, and certain other warmblooded animals not be accepted for transportation in commerce by intermediate handlers and carriers more than 4 hours before the scheduled departure of their primary conveyance in order to minimize the total time an animal is confined in its shipping container or primary enclosure used for transportation.

A great number of comments received viewed the 4-hour limit on the time of tender for such animals as too restrictive. Many argued that consignors of animals would be required to make several trips instead of one trip to the terminal facilities of carriers and intermediate handlers to deliver animal shipments, in order to meet the 4-hour time of tender proposal, according to the scheduled departure of their primary conveyances. These complaints were based on situations where the consignor is located great distances from the terminal facilities and additional delivery trips would result in added costs for fuel and labor. Several comments received pointed out that although present Civil Aeronautics Board (C.A.B.) rules and regulations require the shipper to tender animal shipments to the carrier not more than 4 hours prior to the scheduled departure of a flight, an exception of up to 6 hours, by mutual agreement of the carrier and the consignor, to accommodate specific shipment delivery schedules is allowed.

On the other hand, two comments received argued that 2 hours would be ample time for an animal to be held in the unfamiliar surroundings of a terminal with its loud noises that cause stress to the animal.

APHIS believes that any measures which will assure efficient and timely transportation of such animals to their destinations is paramount. The primary purpose of a restricted time of tender rule is to prevent terminal facilities from becoming a long term storage area for animals awaiting commercial transportation. It is recognized that a rigid time of tender rule imposes certain hardships and additional operating expenses. Therefore, APHIS is providing for a 6-hour time of tender rule, if mutually agreeable to both parties and if specific prior scheduling of the animal shipment to destination has been made. APHIS believes that this flexibility allows the consignor to deliver several animal shipments consigned to different destinations at one time, and, by prearranged scheduling, to choose the fastest and most direct route to a destination with a minimum number of transfers or layovers for each shipment. Such specific prearranged scheduling of animal shipments would effectively reduce the time an animal is in transit with an accompanying decrease in the stress to which it is subjected.

APHIS proposed extensive standards for primary enclosures used to transport animals in commerce. However, one comment received indicated that there was no method or responsible person indicated for preventing the use of substandard shipping containers for transporting animals. To clarify this matter, APHIS is adding a new subsection to the transportation standards concerning consignments to carriers and intermediate handlers which prohibits any carrier or intermediate handler from accepting for transportation or transporting, in commerce, any live animal in a primary enclosure which does not conform to the standards for primary enclosures used to transport such live animal. APHIS is also changing the wording regarding the standards for primary enclosures used to transport live animals to prohibit dealers, research facilities, exhibitors, and operators of auction sales from transporting or offering for transportation, in commerce, any live animal in a primary enclosure that does not conform to the standards for primary enclosures used to transport such live animals.

APHIS proposed that carriers and intermediate handlers transporting an animal on a C.O.D. type basis, attempt to notify the consignee at least once in every 6-hour period following the arrival of a live animal at destination. Several comments received questioned the lack of a maximum period for consignee notification and claim pickup for live animals transported in commerce on other than a C.O.D. basis.

There is nothing in the legislative history of the Animal Welfare Act Amendments of 1976 to indicate that there is any problem concerning the notification of consignees and claims of prepaid live animal shipments consigned to carriers and intermediate handlers. Congress was aware of the problems concerning C.O.D. shipments of animals and specifically provided in section 13(d) of the Animal Welfare Act that there would be a 48-hour maximum claim period for live animals shipped in commerce by any carrier or intermediate handler on any C.O.D. basis. APHIS is not aware of any problem concerning the notification of consignees and the claims of prepaid live animal shipments transported in commerce by carriers and intermediate handlers. Since no claim period for such prepaid live animal shipments was proposed, it cannot be promulgated at this time. However, if APHIS finds that problems do exist concerning the notification of consignees and the claims of such live animal shipments, APHIS will consider an appropriate amendment of the standards.

One comment was received which asked that notification to the consignee of the arrival of live animal shipments be initiated within 90 minutes of the arrival of the primary conveyance transporting the animal.

Although most primary conveyances, such as planes and trains, have scheduled arrivals at specific terminals, the actual arrival time of such primary convey-

ances would, in most cases, probably be unknown to the person responsible for notification and delivery of live animal shipments to consignees. It is unreasonable to expect such persons to know in all instances the exact arrival time of the primary conveyance carrying each live animal shipment, especially at a busy terminal facility, such as a large metropolitan airport. Employees of carriers and intermediate handlers responsible for notifying consignee must be allowed a reasonable time to initiate consignee notification once animal shipments are brought to the animal holding area of the terminal facility. Available information indicates that carriers and intermediate handlers notify consignees of live animal shipments as soon as possible; therefore, APHIS finds no basis to change the consignee notification requirement of at least once every 6 hours. However, APHIS is clarifying this matter by revising the standards to provide that the time for notification of consignees of live animal shipments begins when such shipment arrives at the animal holding area of the terminal facility, and requiring that the time, date, and method of each attempted notification and the final notification and the name of the person making such notification or attempted notification be recorded on the copy of the shipping document retained by the carrier or intermediate handler, and on a copy of the shipping document accompanying the animal shipment.

Comments from air carriers indicated that attempts to notify consignees of animal shipments between the hours of 12 a.m. and 6 a.m. would not be within the normal working hours maintained by most businesses and suggested that the hours between 12 a.m. and 6 a.m. be exempted from the 6-hour consignee notification requirement. Available information indicates that a number of consignees, particularly research facilities, employ personnel on a 24-hour basis, who are available to pickup animal shipments at any time once notification is received. Additionally, many consignees whose business hours range from 9 a.m. to 9 p.m. indicated a desire for notification upon arrival of animal shipments, regardless of business hours, and will provide an alternate means for such notification to occur, e.g., residence telephone numbers. APHIS therefore finds no basis for exempting the hours of 12 a.m. to 6 a.m. from the 6-hour consignee notification requirement.

PRIMARY ENCLOSURES

Two comments received indicated that the language used to describe requirements for the structural strength of a primary enclosure to be vague and inadequate in its scope. These comments were specifically critical of the phrase "withstand the normal rigors of transportation" and suggested that primary enclosures be constructed and certified to meet tests whereby the container will withstand a top load of 250 pounds and withstand being dropped from a specified height onto concrete. To meet such tests

would require specific construction standards mandating precise government specifications to be met by all live animal container manufacturers. Such live animal containers would have to be identified as meeting specific construction standards. In view of the projected resulting increase in the cost of warm-blooded animal containers and lack of any evidence that such construction standards would result in any significant benefits to the live animals transported therein over the presently available containers, APHIS finds no basis for changing the standard for the structural strength of primary enclosures used to transport live animals.

The proposed standards provide that ventilation openings of primary enclosures be located on both ends and such ventilation openings be at least 8 percent of the total surface area of such end. Several comments were received which complained that requirements for the ventilation openings on primary enclosures were insufficient in total ventilation opening area and inappropriately placed to provide adequate airflow or ventilation to all levels inside the primary enclosure. Information was presented indicating that ventilation openings located only on the ends of the primary enclosure, which are the smaller of the four walls of a primary enclosure, and comprising 8 percent of the total surface area of each such end would not provide sufficient ventilation. APHIS agrees that the proposed ventilation openings would not provide sufficient ventilation and has concluded that the ventilation openings must be at least 16 percent of the total surface area of each of two opposite walls, except where ventilation is provided on all four walls of the primary enclosure. Almost all commercial primary enclosures used for transporting dogs and cats have ventilation openings which comprise at least 8 percent of each wall, if they are located on all four walls. APHIS meant to propose that ventilation openings comprise at least 16 percent of each of two opposite walls if there were not ventilation openings on all four walls of the primary enclosure used for transporting dogs or cats. Therefore, the standards have been changed to require that ventilation openings must be at least 8 percent of the total surface area of each of four walls or 16 percent of each of two opposite walls.

Several comments were critical of APHIS for failing to indicate requirements for the location of ventilation on the walls of the primary enclosure used to transport live animals. These comments pointed out that without provision for some ventilation openings on both the upper and lower halves of the shipping container, inadequate ventilation would be provided to the animals contained therein. APHIS is, therefore, requiring that at least one-third of the total area providing ventilation for the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total area providing ventilation for the primary en-

closure shall be located on the upper one-half of the primary enclosure.

APHIS proposed requirements regarding food and water for animals shipped in commerce. However, several commenters pointed out that there were no provisions requiring a method of administering food and water or receptacles to receive and contain such necessary food and water. APHIS agrees that such a requirement would seem to be beneficial so that carriers and intermediate handlers would have a means of administering any food or water required for an animal while being transported in commerce without having to open such an animal's primary enclosure. However, APHIS does not have sufficient information at this time concerning the impact of such a requirement on the industry upon which to base such a standard.

Adequate space in the primary enclosure used to transport warmblooded animals is based on the size of the animal relative to the size of the enclosure. Because of individual, as well as species differences, animals vary diversely in size and stature. The proposed space requirements for primary enclosures used to transport dogs and cats specify that each dog or cat shall have sufficient space to turn about freely in a standing position, to stand and sit erect and to lie in a natural position. Comments received indicate that the space requirements for dogs and cats were vague and lacking in sufficient explanation, particularly, regarding the phrase "sufficient space to turn about freely in a standing position" as it relates to width requirements for the primary enclosure.

Some people believe that if an animal can turn around in its enclosure, regardless of the body contortions which may be required, there would be compliance with the proposed space requirements for dogs and cats cited in Section 3.12 of the standards. To further clarify space requirements for dogs and cats, the standards are being changed by adding the phrase "using normal body movements" to the phrase "to turn about freely in a standing position" in Section 3.12(c).

The proposed standards allow an exception to the space requirements for coursing hounds transported in commerce and which are subject to injury to their vertebral column in the course of transportation if allowed sufficient space to turn about. Two commenters provided information from published scientific data indicating that only coursing hounds with a spinal arch, which are greyhounds, whippets, borzoi, and Italian greyhounds, were subject to spinal injury from turning around within a confined space. Based upon this information, the standards are being amended to allow an exception to the space requirements for primary enclosures used for transporting coursing hounds only if they have a spinal arch, and to require that such primary enclosure be narrow enough to prevent such dogs from turning around in their pri-

mary enclosures during transportation in commerce.

The proposed standards provide that the interior height of primary enclosures used to transport live guinea pigs be at least 20.3 centimeters (8 inches). Producers of guinea pigs and the biomedical community provided information which indicates that guinea pigs up to 500 grams in weight can be transported in a container with an interior height of not more than 6 inches and that breeder guinea pigs weighing over 500 grams can be transported in a container with an interior height of not more than 7 inches without affecting the health and safety of the animals. APHIS believes that the information and data presented are reasonable and, therefore, the standards are being amended to require that the interior height of primary enclosures used to transport guinea pigs shall be at least 15.2 centimeters (6 inches) for guinea pigs weighing up to 500 grams and at least 17.8 centimeters (7 inches) for guinea pigs weighing over 500 grams.

The proposed standards provide that space requirements for primary enclosures used to transport nonhuman primates be large enough to ensure that each nonhuman primate contained therein has sufficient space to turn about freely in a stance whereby both feet and hands are on the floor and can sit in an upright position and lie in a natural position. Two comments received indicated that healthy nonhuman primates do not normally lie down when resting or sleeping. APHIS acknowledges the validity of these comments, and section 3.86(c) of the standards are changed to remove the phrase "and lie in a natural position."

APHIS proposed limitations in the standards on the number of dogs and cats which may be transported in one primary enclosure based on the age and size of the dogs and cats. Specific limitations include a maximum of one live dog or cat over 6 months of age to be transported in a primary enclosure and a maximum of two puppies or kittens, 8 weeks to 6 months of age, but not weighing over 20 pounds and of comparable size, to be transported in one primary enclosure. However, as one comment pointed out, there is no provision for transporting a puppy, 8 weeks to 6 months of age and weighing over 20 pounds. However, in view of the size of such animal, it was the intent of APHIS to require the same limitation as provided for dogs over six months of age. Therefore, APHIS is clarifying this point by providing in the standards that only one puppy, 8 weeks to 6 months of age and weighing over 20 pounds, may be transported in a primary enclosure or shipping container.

A provision was proposed which would allow puppies or kittens that are less than 8 weeks of age and littermates accompanied by their dam to be transported in one shipping container to research laboratories only. Several commenters sharply criticized the requirement for the dam to accompany the pup-

pies or kittens less than 8 weeks of age shipped to research laboratories, in order to provide the young frequent nourishment. It was pointed out that many puppies and kittens less than 8 weeks of age are weaned and subsequently do not need their mother as a source of nourishment during transportation. Information was also provided which shows that weaned puppies and kittens less than 8 weeks of age do need social contact to reduce the stress of transportation, but that such animals need not be littermates as long as the group of puppies or kittens are of comparable size to foster compatibility within the confines of the shipping container. APHIS has reconsidered this matter and agrees that weaned live puppies or kittens of less than 8 weeks of age and of comparable size, need not be accompanied by their dam when shipped in the same primary enclosure to research laboratories. The standards are revised to reflect this change.

One commenter requested that provisions within the standards be made for primary enclosures which are affixed within a primary conveyance, such as are found in many trucks or other motor vehicles used to transport live animals in commerce by dealers, research facilities, exhibitors and operators of auction sales. APHIS acknowledges that certain standards for primary enclosures which are pertinent to (1) the location, quantity, and area of ventilation openings, (2) requirements for projecting rims or other devices to prevent the blocking of ventilation openings, (3) requirements for handholds or other devices for lifting the primary enclosure, and (4) identification of the primary enclosure's contents and markings indicating the primary enclosure's correct upright position are inappropriate when they are permanently affixed in the animal cargo space of the primary conveyance. Obviously, such a permanently affixed primary enclosure in the animal cargo space of a primary conveyance is not going to be handled by carriers and intermediate handlers with other general cargo so that it needs to be identified as containing a live animal or need handholds or other devices for lifting. Since such a primary enclosure is permanently affixed within the animal cargo space it would also not be subject to possible turning so that its correct upright position need be identified. Likewise, since such a permanently affixed primary enclosure is not subject to being loaded in various positions with other cargo so that its ventilation openings may be blocked by other cargo or a conveyance wall, it would not need rims or other devices to prevent such blockage. However, if the front of such a permanently affixed primary enclosure is the only means of ventilation for such primary enclosure it should be as large as possible to provide maximum ventilation and still be structurally sound and open directly to the outside or to an unobstructed aisle or passageway within the animal cargo space to ensure such maximum possible ventilation. APHIS believes that if the front of a permanently affixed primary enclosure is the only means of

ventilating such a primary enclosure in the animal cargo space of a primary conveyance, that it must be at least 90 percent of the front wall of such a primary enclosure in order to assure adequate ventilation to any animal contained therein. APHIS, therefore, provides that when a primary enclosure is permanently affixed to the animal cargo space of a primary conveyance so that the front opening of the primary enclosure is the only source of ventilation, the front opening shall open directly to the outside or to an unobstructed aisle or passageway within the primary conveyance. APHIS is also requiring that the front ventilation opening of such primary enclosures shall be at least 90 percent of the total surface area of the front wall of the primary enclosure and covered with bars, wire mesh, or smooth expanded metal. APHIS is also excepting such permanently affixed primary enclosures used for transportation of animals from the requirements for projecting rims, handholds, or other devices for lifting and markings indicating that it contains a live or wild animal and the primary enclosure's correct upright position.

PRIMARY CONVEYANCES

The proposed standards provide that the animal cargo space in a primary conveyance be constructed and maintained in a manner to prevent the ingress of engine exhaust fumes and gases. Comments received from carriers indicated that during unloading or loading of primary conveyances, particularly aircraft, some engine exhaust fumes could enter the passenger compartments as well as the cargo compartments of the primary conveyance. It was pointed out that exposure to such minimal amounts of engine exhaust fumes and gases would not be detrimental to either humans or animals. APHIS acknowledges that the animal cargo space cannot be constructed to entirely prevent the entry of some amounts of engine exhaust gases, especially during loading and unloading procedures and normal engine exhaust fumes and gases from sources other than the primary conveyance, such as occur along major highways, at large airports and other terminal facilities. Therefore, the standards are revised to require that the animal cargo space shall be constructed and maintained in a manner to prevent the ingress of engine exhaust fumes and gases from the primary conveyance during transportation in commerce.

A great number of comments were received regarding the proposal that primary enclosures be positioned in the primary conveyance in such a manner that in an emergency the animals can be removed from the primary conveyance within a five minute time period. Comments received criticized the proposal as lacking a definition for "emergency" since, in the event of a fire, as opposed to a mechanical malfunction of the primary conveyance, there is a sharp difference in the urgency to remove animals as well as human passengers from the primary conveyance. From a practical

point of view, all primary enclosures containing live animals would have to be positioned adjacent to cargo doors in order to exit animals within a five minute time period. Comments received also pointed out that requiring the unloading of animals within five minutes may have to be accomplished in an inhumane fashion, such as by tossing the shipping containers free of the primary conveyance. APHIS recognizes the validity of such comments in some situations and, therefore, will require that primary enclosures be positioned in the primary conveyance in such a manner that animals can be removed from the primary conveyance as soon as possible.

The proposed standards include a requirement that live animals shall not be transported with any material, substance, or device which may be injurious to the health and well-being of the animals unless proper precaution is taken to prevent such injury. Comments indicated that the terms "material", "substances", and "device" were vague and that specific materials and substances which may be injurious to the animals being transported should be identified. One of the most common materials or substances used in shipping perishable commodities, which is extremely dangerous to animals enclosed in a small space with it, is dry ice. As dry ice evaporates, it releases carbon dioxide which builds up to such a point that it suffocates any animals in a small area with it in a relatively short period of time. Therefore, APHIS is including dry ice as an example of such a potentially injurious material or substance.

One comment received labeled the term "device" as potentially all cargo within proximity of the animal shipping containers and even the primary conveyance or parts thereof, should an accident occur causing structural damage or destruction of the animal cargo area. While APHIS acknowledges the fact that the term "device" is potentially all cargo within the proximity of any primary enclosure containing an animal, APHIS believes such animals should not be needlessly exposed to dangers that may be avoided through the exercise of reasonable care by taking proper precautions to prevent such injuries. If an accident did occur which caused damage to the animal cargo area of a primary conveyance and such damage may be injurious to the animals contained therein, such damage should be repaired or other precaution taken to prevent any such injury to the animals contained therein.

Another comment received requested that the term "knowingly" be added so that the provision would read that live animals " . . . shall not knowingly be transported with any material, substance or device which may be injurious . . ." because carriers would have to meticulously examine all other cargo placed with any live animal if such a strict liability standard were adopted. While APHIS believes that the applicability of this section as proposed may be

strict as to carriers, APHIS believes that the suggested standard of "knowingly" is not strict enough. Therefore, APHIS has decided to add the phrase "reasonably be expected to" immediately after "may" and before "be injurious" in such provision of the standards.

FOOD AND WATER REQUIREMENTS

The proposed standards provide that dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates, and certain other warmblooded animals be offered potable water within 4 hours prior to being transported or offered for transportation to any carrier or intermediate handler and every 12 hours thereafter. One comment indicated that no person was indicated as responsible for offering potable water to animals within 4 hours prior to being offered for transportation in commerce. APHIS is clarifying this matter by requiring in the standards that any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or any State or local government offering live animals for transportation in commerce is responsible for offering potable water to such animals within 4 hours prior to being so offered for transportation.

One comment pointed out that the proposed standards require the feeding of adult animals once in each 24-hour period and young animals once in every 12-hour period during transportation. The comment further indicated that such time periods for feeding shall apply to carriers and intermediate handlers after acceptance of such animals for transportation, but that the proposed standards do not indicate when such time periods for feeding are applied to USDA licensees and registrants which transport animals in their own primary conveyances. APHIS acknowledges the ambiguity present in such standard as to persons subject to the Act other than carriers and intermediate handlers, especially when it is read in conjunction with the general requirements as to feeding and watering. APHIS is aware that is a common, accepted practice to fast many animals, such as dogs, prior to being transported to minimize motion sickness, nausea, and vomiting and to provide a cleaner environment for such animals during the course of their transportation. Such short fasts are not detrimental to the health and well-being of such animals. Therefore, APHIS has rewritten the feeding standard for live dogs, cats, and nonhuman primates during transportation to require dealers, research facilities, exhibitors, and operators of auction sales to feed adult animals once in every 24-hour period after transportation is initiated and young animals once in every 12-hour period after transportation is initiated in their own primary conveyances.

Carriers and intermediate handlers commented that the wording of the proposed standards for feeding and watering live animals in transit would require the carrier or intermediate handler to pro-

vide both potable water and food to such animals at the end of specified time periods following acceptance of the animals for transportation in commerce. These comments indicated that the carriers and intermediate handlers can provide potable water, but are not in a position to provide appropriate food for animals of different species, breeds, and ages. APHIS believes it is important that when animals in transit are required to be fed, that they be fed an appropriate quantity and quality of food. Carriers and intermediate handlers are not, and should not be required to be, animal nutrition experts. Therefore, APHIS is requiring that dealers, exhibitors, research facilities and operators of auction sales offering any live animal, except a guinea pig, hamster or rabbit, for shipment in commerce to any carrier or intermediate handler shall affix to the outside of the primary enclosure used to transport such animal written instructions concerning the food and water requirements of such animal while being so transported. APHIS is also requiring that carriers and intermediate handlers not accept any live animal, except a guinea pig, hamster or rabbit, for shipment in commerce unless such written instructions concerning its food and water requirements is affixed to the outside of its primary enclosure.

Producers of guinea pigs, hamsters and rabbits and representatives of the biomedical community commented that the proposed standards relative to food and water requirements for guinea pigs, hamsters, and rabbits transported in commerce would restrict the foodstuffs which satisfy food and water needs to only fruits and vegetables. Information and data was provided which showed that other shipping diets and newly developed leakproof water container-dispensers are available to fulfill the required food and water needs of such animal in transit. APHIS has reconsidered the standards for food and water requirements for guinea pigs, hamsters, and rabbits and will require that when such animals are to be fed or watered during transportation that the shipper of such animals shall provide food and water or a type of food which provides the requirements for food and water in quantity and quality sufficient to satisfy their food and water needs during such transportation.

CARE IN TRANSIT

A great number of comments were received regarding the proposed standard that live animals be inspected in transit at least every 2 hours for the purpose of determining whether veterinary care is needed. Comments received argued that the 2-hour inspection would require stopping surface transportation vehicles at inconvenient and often dangerous points in route and require the driver or employee to inspect each animal to determine the need for veterinary care. Such procedures were indicated as costly, ineffective, and inhumane in that such delays would slow the transportation of animals to their destination. Comments

from carriers and intermediate handlers indicated that compliance with the proposed 2-hour inspection of animals transported by air, wherein the cargo area is accessible during flight, would increase the flight crew's workload and require periodic absences from the cockpit with possible resulting adverse effect on the aircraft's safety. Carriers and intermediate handlers argued further that the determination for need of veterinary care would place the responsibility for judgments in the area of veterinary medicine on employees which are not trained or otherwise qualified to make such decisions. After considering the comments received, APHIS has concluded that personnel employed by carriers and intermediate handlers are not generally qualified to inspect an animal and determine its need for veterinary care. APHIS does believe that animals should be visually inspected as frequently as circumstances may dictate, but at least every 4 hours. Circumstances may dictate that more frequent inspections are warranted, such as if an air conditioning unit breaks down during transportation on a hot day or if a leak in the exhaust system develops which may cause a build up of engine exhaust fumes in the animal cargo area of the primary conveyance. APHIS also believes that employees of carriers can tell if an animal is in obvious physical distress which would require prompt veterinary attention such as a failure to respond to external stimuli, labored breathing, bloody diarrhea or unconsciousness. While APHIS believes that animals should be visually observed during transportation at least every 2 hours during extremes of temperatures and other adverse conditions, APHIS recognizes the validity of the comments received if there are no such adverse conditions. APHIS does not believe, however, that even under optimum conditions that animals being transported in commerce should be visually observed any less than at least every 4 hours. APHIS, therefore, is requiring in the standards that during surface transportation, it shall be the responsibility of the driver or other employee to visually observe the live animals as frequently as circumstances may dictate, but not less than every 4 hours, to assure that such animals are receiving sufficient air for normal breathing, their ambient temperature is within the prescribed limits, all other applicable standards are being complied with and to determine if any of the animals are in obvious physical distress and provide any needed veterinary care as soon as possible. In the course of air transportation, live animals shall be visually observed by the carrier as frequently as circumstances may dictate, but not less than every 4 hours, if the animal cargo space is accessible during flight and whenever the animals are loaded and unloaded and whenever the animal cargo space is otherwise accessible if it is not accessible during flight. Any needed veterinary care shall be provided as soon as possible in order to maintain the animals in a healthy condition. APHIS recognizes the

validity of some of the comments received, but believes this requirement to be the minimum amount of inspection necessary to insure the humane treatment of animals being transported in commerce.

TERMINAL FACILITIES

The proposed standards provided that a specific area be designated as an indoor animal holding area in terminal facilities for which fresh air and ventilation is provided, and ambient temperatures are controlled to prevent excessive changes in temperature. Comments received from carriers indicated that they did not believe that their terminal facilities should have to meet the same temperature requirements as a dealer, exhibitor, or research facility does for housing animals over a long period of time. APHIS recognizes that a terminal facility is part of the transportation process, and as such, it cannot regulate temperatures as effectively as a housing facility built specifically for housing a certain type of animal. General cargo is constantly being loaded and unloaded from various types of conveyances for which large doors must be opened for access to and from the terminal facility. At the same time, however, APHIS believes that a terminal facility should not be allowed the same latitude in extremes of temperatures as some primary conveyances, such as an airplane where there is a problem with heat build up on hot days in the cargo hold with little or no air exchange between loading and take off. Therefore, APHIS is requiring that the animal holding area of the terminal facilities of carriers and intermediate handlers not allow the temperatures to fall below a minimum of 7.2° C. (45° F.) nor exceed 29.5° C. (85° F.) for more than 4 hours and never exceed a maximum of 35° C. (95° F.), except in the case of guinea pigs, hamsters, and rabbits which cannot tolerate such warm temperatures, as was required by the standards for animals being transported by dealers, exhibitors and research facilities.

The proposed standards also prescribed requirements for the cleanliness and sanitation of the animal holding area to prevent a disease hazard, accumulation of trash, debris, or excreta, or vermin infestation. Comments indicated that the required animal holding area in terminal facilities would be responsible for increasing the cost of transporting animals in the major construction is required in some terminal facilities, and modification of present facilities in other terminals and the cost of such investments by the carriers and intermediate handlers will be passed on to the general public. Comments received also argued that since compliance with the standards is required, effective 90 days after publication of such standards, there is the possibility that carriers and intermediate handlers will not be able to complete necessary modifications to present terminal facilities to provide an acceptable animal holding area.

APHIS is not requiring major construction at any terminal facility. Simple modifications of existing structures in most terminal facilities would meet the standards for an animal holding area. Some terminal facilities may require the construction of simple rooms such as with 2 x 4's and painted plywood or paneling to control the temperature within the prescribed limits. However, in most cases the designation of an area which can be kept clean and where all animal shipments shall be kept will suffice. APHIS believes it important to provide for a designated animal holding area within terminal facilities and that minimum modifications in terminal facilities, where it is required, can be completed in 90 days.

HANDLING

To minimize physical and emotional trauma to warmblooded animals transported in commerce, APHIS proposed that care be exercised in handling the primary enclosures to avoid tossing, dropping, or needlessly tilting the primary enclosures or stacking the primary enclosures in a manner which may result in their falling. One commenter criticized the phrase "shall not be stacked in a manner which may result in their falling", in connection with the handling of primary enclosures, as vague in that any container on top of another "may fall". Therefore, the phrase "shall not be stacked in a manner which may reasonably be expected to result in their falling" is substituted in the standards required for handling primary enclosures used to transport live animals in commerce.

AMBIENT TEMPERATURES

Standards were proposed for the range of ambient temperatures which would be allowed within primary enclosures used to transport live animals in commerce. The proposed ambient temperatures within a primary enclosure used to transport guinea pigs and hamsters was not to exceed 20.5° C. (85° F.) for a period of more than 45 minutes nor fall below 15.5° C. (60° F.) for a period of more than 45 minutes. Information provided by guinea pig and hamster producers and research facilities with guinea pig and hamster colonies indicates that both guinea pigs and hamsters are capable of tolerating an ambient temperature down to 7.2° C. or 45° F. without endangering the health of these animals. Information also indicated that the maximum ambient temperature which guinea pigs and hamsters could tolerate was 20.5° C. (85° F.) for short periods of time such as 45 minutes. Such information appears accurate and reasonable and APHIS, therefore, provides that the ambient temperature within primary enclosures used to transport live guinea pigs and hamsters shall not exceed 20.5° C. (85° F.) for a period of more than 45 minutes nor fall below 7.2° C. (45° F.) for a period of more than 45 minutes.

Based on the information provided by producers and research facilities raising

guinea pigs and hamsters regarding temperature extremes tolerated by these animals, APHIS will require in section 3.40 (b) (iii) that transporting devices shall be covered to provide protection from cold weather for live guinea pigs and hamsters when the atmospheric temperature falls below 10° C. (50° F.).

OTHER COMMENTS

A number of comments were received which were beyond the scope of the proposed rulemaking. Many other comments received provided no supporting evidence for the criticism indicated or the suggested changes to the standards. Without the basis for such comments being enunciated, they could not be evaluated as to their ability to provide more humane care, treatment, and handling of the animals during their transportation in commerce. Therefore, they were not able to be considered in this rulemaking proceeding.

Accordingly, the regulations and standards under the Animal Welfare Act (9 CFR 1.1 et seq.) are amended in the following respects:

PART 1—DEFINITION OF TERMS

1. Section 1.1 of the regulations (9 CFR 1.1) is amended by adding new paragraphs (qq) and (rr) to the end thereof as follows:

§ 1.1 Definition.

(qq) "Primary conveyance" means the main method of transportation used to convey an animal from origin to destination, such as a motor vehicle, plane, ship, or train.

(rr) "Transporting device" means an interim vehicle or device, other than man, used to transport an animal between the primary conveyance and the terminal facility or in and around the terminal facility of a carrier or intermediate handler.

PART 2—REGULATIONS

2. Section 2.100 of the regulations (9 CFR 2.100) is amended by designating the present regulation as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 2.100 Compliance with standards.

(b) Each carrier and intermediate handler shall comply in all respects with the standards set forth in Part 3 of the subchapter setting the standards for the humane transportation of animals, in commerce, and their handling, care, and treatment in connection therewith.

PART 3—STANDARDS

3. The Table of Contents cited in Part 3—Standards is amended to read as follows:

Subpart A—Specifications for the Humane Handling, Care, Treatment, and Transportation of Dogs and Cats

FACILITIES AND OPERATING STANDARDS

- 3.1 Facilities, general.
- 3.2 Facilities, indoor.
- 3.3 Facilities, outdoor.
- 3.4 Primary enclosures.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

- 3.5 Feeding.
- 3.6 Watering.
- 3.7 Sanitation.
- 3.8 Employees.
- 3.9 Classification and separation.
- 3.10 Veterinary care.

TRANSPORTATION STANDARDS

- 3.11 Consignments to carriers and intermediate handlers.
- 3.12 Primary enclosures used to transport live dogs and cats.
- 3.13 Primary conveyances (motor vehicle, rail, air, and marine).
- 3.14 Food and water requirements.
- 3.15 Care in transit.
- 3.16 Terminal facilities.
- 3.17 Handling.
- 3.18 Ambient temperature.

Subpart B—Specifications for the Humane Handling, Care, Treatment, and Transportation of Guinea Pigs and Hamsters

FACILITIES AND OPERATING STANDARDS

- 3.25 Facilities, general.
- 3.26 Facilities, indoor.
- 3.27 Facilities, outdoor.
- 3.28 Primary enclosures.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

- 3.29 Feeding.
- 3.30 Watering.
- 3.31 Sanitation.
- 3.32 Employees.
- 3.33 Classification and separation.
- 3.34 Veterinary care.

TRANSPORTATION STANDARDS

- 3.35 Consignments to carriers and intermediate handlers.
- 3.36 Primary enclosures used to transport live guinea pigs and hamsters.
- 3.37 Primary conveyances (motor vehicle, rail, air, and marine).
- 3.38 Food and water requirements.
- 3.39 Care in transit.
- 3.40 Terminal facilities.
- 3.41 Handling.
- 3.42 Ambient temperature.

Subpart C—Specifications for the Humane Handling, Care, Treatment, and Transportation of Rabbits

FACILITIES AND OPERATING STANDARDS

- 3.50 Facilities, general.
- 3.51 Facilities, indoor.
- 3.52 Facilities, outdoor.
- 3.53 Primary enclosures.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

- 3.54 Feeding.
- 3.55 Watering.
- 3.56 Sanitation.
- 3.57 Employees.
- 3.58 Classification and separation.
- 3.59 Veterinary care.

TRANSPORTATION STANDARDS

- 3.60 Consignments to carriers and intermediate handlers.

Sec.

- 3.61 Primary enclosures used to transport live rabbits.
- 3.62 Primary conveyances (motor vehicle, rail, air, and marine).
- 3.63 Food and water requirements.
- 3.64 Care in transit.
- 3.65 Terminal facilities.
- 3.66 Handling.
- 3.67 Ambient temperature.

Subpart D—Specifications for the Humane Handling, Care, Treatment, and Transportation of Nonhuman Primates

FACILITIES AND OPERATING STANDARDS

- 3.75 Facilities, general.
- 3.76 Facilities, indoor.
- 3.77 Facilities, outdoor.
- 3.78 Primary enclosures.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

- 3.79 Feeding.
- 3.80 Watering.
- 3.81 Sanitation.
- 3.82 Employees.
- 3.83 Classification and separation.
- 3.84 Veterinary care.

TRANSPORTATION STANDARDS

- 3.85 Consignments to carriers and intermediate handlers.
- 3.86 Primary enclosures used to transport live nonhuman primates.
- 3.87 Primary conveyances (motor vehicle, rail, air, and marine).
- 3.88 Food and water requirements.
- 3.89 Care in transit.
- 3.90 Terminal facilities.
- 3.91 Handling.
- 3.92 Ambient temperature.

Subpart E—Specifications for the Humane Handling, Care, Treatment, and Transportation of Warmblooded Animals Other Than Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, and Nonhuman Primates

FACILITIES AND OPERATING STANDARDS

- 3.100 Facilities, general.
- 3.101 Facilities, indoor.
- 3.102 Facilities, outdoor.
- 3.103 Space requirements.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

- 3.104 Feeding.
- 3.105 Watering.
- 3.106 Sanitation.
- 3.107 Employees.
- 3.108 Separation.
- 3.109 Veterinary care.
- 3.110 Handling.

TRANSPORTATION STANDARDS

- 3.111 Consignments to carriers and intermediate handlers
- 3.112 Primary enclosures used to transport live animals.
- 3.113 Primary conveyances (motor vehicle, rail, air, and marine).
- 3.114 Food and water requirements.
- 3.115 Care in transit.
- 3.116 Terminal facilities.
- 3.117 Handling.
- 3.118 Ambient temperature.

AUTHORITY: Secs. 12 and 13, 80 Stat. 351 and 352, as amended; 7 U.S.C. 2142 and 2143.

3. Section 3.11 of the standards (9 CFR 3.11) is amended to read as follows:

§ 3.11 Consignments to carriers and intermediate handlers.

(a) Carriers and intermediate handlers shall not accept any live dog or cat

presented by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or any State or local government for shipment, in commerce, more than 4 hours prior to the scheduled departure of the primary conveyance on which it is to be transported: *Provided, however*, That the carrier or intermediate handler and any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or any State or local government may mutually agree to extend the time of acceptance to not more than 6 hours if specific prior scheduling of the animal shipment to destination has been made.

(b) No carrier or intermediate handler shall accept for transportation or transport, in commerce, any live dog or cat in a primary enclosure which does not conform to the requirements set forth in § 3.12 of the standards.

(c) Carriers and intermediate handlers shall attempt to notify the consignee at least once in every 6 hour period following the arrival of any live dog or cat at the animal holding area of the terminal cargo facility. The time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee shall be recorded on the copy of the shipping document retained by the carrier or intermediate handler and on a copy of the shipping document accompanying the animal shipment.

4. § 3.12 of the standards (9 CFR 3.12) is amended to read as follows:

§ 3.12 Primary enclosures used to transport live dogs and cats.

No dealer, research facility, exhibitor, or operator of an auction sale shall offer for transportation or transport, in commerce, any live dog or cat in a primary enclosure which does not conform to the following requirements:

(a) Primary enclosures, such as compartments, transport cages, cartons, or crates, used to transport live dogs and cats shall be constructed in such a manner that (1) the structural strength of the enclosure shall be sufficient to contain the live dogs and cats and to withstand the normal rigors of transportation; (2) the interior of the enclosure shall be free from any protrusions that could be injurious to the live dogs or cats contained therein; (3) the openings of such enclosures are easily accessible at all times for emergency removal of the live dogs or cats; (4) except as provided in paragraph (h) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of

the total surface area of each such wall: *Provided, however*, That at least one-third of the total area providing ventilation for the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total area providing the ventilation for the primary enclosure shall be located on the upper one-half of the primary enclosure; (5) except as provided in paragraph (h) of this section, projecting rims or other devices shall be on the exterior of the outside walls with any ventilation openings to prevent obstruction of the ventilation openings and to provide a minimum air circulation space of 1.9 centimeters (.75 inches) between the primary enclosure and any adjacent cargo or conveyance wall; and (6) except as provided in paragraph (h) of this section, adequate handholds or other devices for lifting shall be provided on the exterior of the primary enclosure to enable the primary enclosure to be lifted without tilting and to ensure that the person handling the primary enclosure will not be in contact with the dog or cat.

(b) Live dogs or cats transported in the same primary enclosure shall be of the same species and maintained in compatible groups. Puppies or kittens shall not be transported in the same primary enclosure with adult dogs or cats, other than their dams.

(c) Primary enclosures used to transport live dogs and cats shall be large enough to ensure that each animal contained therein has sufficient space to turn about freely in a standing position using normal body movements, to stand and sit erect, and to lie in a natural position: *Provided, however*, That the primary enclosure for a coursing hound with a spinal arch (greyhound, whippet, borzoi, and Italian greyhound) must be narrow enough to prevent the animal from turning around in its enclosure.

(d) A maximum of one live dog or cat, 6 months or more of age, or a maximum of one live puppy, 8 weeks to 6 months of age and weighing over 9 kilograms (20 pounds), shall be transported in a primary enclosure. Two live puppies and kittens, 8 weeks to 6 months of age, but not weighing over 9 kilograms (20 pounds) each and of comparable size, may be carried in the same primary enclosure. Weaned live puppies or kittens less than 8 weeks of age and of comparable size, or puppies or kittens which are less than 8 weeks of age and littermates accompanied by their dam, may be shipped in the same primary enclosure to research laboratories.

(e) Primary enclosures used to transport live dogs and cats as provided in this section shall have solid bottoms to prevent leakage in shipment and shall be cleaned and sanitized in a manner prescribed in § 3.7 of the standards, if previously used. Such primary enclosures shall contain clean litter of a suitable absorbent material, which is safe and non-toxic to the dogs and cats, in sufficient quantity to absorb and cover excreta, unless the dogs or cats are on wire or

other nonsolid floors.

(f) Primary enclosures used to transport live dogs and cats, except where such primary enclosures are permanently affixed in the animal cargo space of the primary conveyance, shall be clearly marked on top and on one or more sides with the words "Live Animals" in letters not less than 2.5 centimeters (1 inch) in height, and with arrows or other markings, to indicate the correct upright position of the container.

(g) Documents accompanying the shipment shall be attached in an easily accessible manner to the outside of a primary enclosure which is part of such shipment.

(h) When a primary enclosure is permanently affixed within the animal cargo space of the primary conveyance so that the front opening is the only source of ventilation for such primary enclosure, the front opening shall open directly to the outside or to an unobstructed aisle or passageway within the primary conveyance. Such front ventilation opening shall be at least 90 percent of the total surface area of the front wall of the primary enclosure and covered with bars, wire mesh or smooth expanded metal.

(5) § 3.13 of the standards (9 CFR 3.13) is amended to read as follows:

§ 3.13 Primary conveyances (motor vehicle, rail, air, and marine).

(a) The animal cargo space of primary conveyances used in transporting live dogs and cats shall be designed and constructed to protect the health, and ensure the safety and comfort of the dogs and cats contained therein at all times.

(b) The animal cargo space shall be constructed and maintained in a manner to prevent the ingress of engine exhaust fumes and gases from the primary conveyance during transportation in commerce.

(c) No live dog or cat shall be placed in an animal cargo space that does not have a supply of air sufficient for normal breathing for each live animal contained therein, and the primary enclosures shall be positioned in the animal cargo space in such a manner that each dog or cat has access to sufficient air for normal breathing.

(d) Primary enclosures shall be positioned in the primary conveyance in such a manner that in an emergency the live dogs and cats can be removed from the primary conveyance as soon as possible.

(e) The interior of the animal cargo space shall be kept clean.

(f) Live dogs and cats shall not be transported with any material, substance (e.g., dry ice) or device which may reasonably be expected to be injurious to the health and well-being of the dogs and cats unless proper precaution is taken to prevent such injury.

(6) § 3.14 of the standards (9 CFR 3.14) is amended to read as follows:

§ 3.14 Food and water requirements.

(a) All live dogs or cats shall be offered potable water within 4 hours prior to

being transported in commerce. Any live dogs or cats less than 16 weeks of age being offered to any carrier for transportation in commerce shall be offered at least 60 cubic centimeters (ccs.) (approximately 2 ounces) of potable water within 4 hours prior to being so offered for transportation in commerce. Dealers, exhibitors, research facilities and operators of auction sales shall provide potable water to all live dogs and cats transported in their own primary conveyance at least every 12 hours after such transportation is initiated, and carriers and intermediate handlers shall provide potable water to all live dogs and cats at least every 12 hours after acceptance for transportation in commerce.

(b) Each live dog and cat over 16 weeks of age shall be fed at least once in each 24 hour period. Live puppies and kittens less than 16 weeks of age shall have food made available to them at least every 12 hours. The time periods provided for in this paragraph shall apply to carriers and intermediate handlers after acceptance of any live dog or cat for transportation, in commerce, and shall apply to dealers, exhibitors, research facilities, and operators of auction sales who transport live dogs and cats in their own primary conveyance after such transportation is initiated.

(c) Any dealer, research facility, exhibitor or operator of an auction sale offering any live dog or cat to any carrier or intermediate handler for transportation in commerce shall affix to the outside of the primary enclosure used for transporting such dog or cat, written instructions concerning the food and water requirements of such dog or cat while being transported.

(d) No carrier or intermediate handler shall accept any live dog or cat for transportation in commerce unless written instructions concerning the food and water requirements of such dog or cat while being so transported is affixed to the outside of its primary enclosure.

7. A new § 3.15 (9 CFR 3.15) is added to the standards as follows:

§ 3.15 Care in transit.

(a) During surface transportation, it shall be the responsibility of the driver or other employee to visually observe the live dogs or cats as frequently as circumstances may dictate, but not less than once every 4 hours, to assure that they are receiving sufficient air for normal breathing, their ambient temperatures are within the prescribed limits, all other applicable standards are being complied with and to determine whether any of the live dogs or cats are in obvious physical distress and to provide any needed veterinary care as soon as possible. When transported by air, live dogs and cats shall be visually observed by the carrier as frequently as circumstances may dictate, but not less than once every 4 hours, if the animal cargo space is accessible during flight. If the animal cargo space is not accessible during flight, the carrier shall visually observe the live dogs or cats whenever loaded and unloaded and whenever the

animal cargo space is otherwise accessible to assure that they are receiving sufficient air for normal breathing, their ambient temperatures are within the prescribed limits, all other applicable standards are being complied with and to determine whether any such live dogs or cats are in obvious physical distress. The carrier shall provide any needed veterinary care as soon as possible. No dog or cat in obvious physical distress shall be transported in commerce.

(b) During the course of transportation, in commerce, live dogs or cats shall not be removed from their primary enclosures unless placed in other primary enclosures or facilities conforming to the requirements provided in this subpart.

8. A new § 3.16 (9 CFR 3.16) is added to the standards as follows:

§ 3.16 Terminal facilities.

(a) *Indoor facilities.* Carriers shall provide a designated indoor animal holding area which shall not be used for general cargo, but may be located within the general cargo area. The indoor animal holding area shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. The ambient temperature shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) for more than 4 hours and shall not exceed 35° C. (95° F.) at any time. The indoor animal holding area shall be cleaned and sanitized in a manner prescribed in § 3.7 of the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard.

(b) *Outdoor facilities.* Carriers and intermediate handlers in transporting any live dog or cat from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(i) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live dogs and cats from the direct rays of the sun.

(ii) *Shelter from rain or snow.* Live dogs and cats shall be provided protection to allow them to remain dry during rain or snow.

(iii) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live dogs and cats when the atmospheric temperature falls below 10° C. (50° F.).

9. A new § 3.17 (9 CFR 3.17) is added to the standards as follows:

§ 3.17 Handling.

(a) Carriers and intermediate handlers shall move live dogs and cats from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance

to the indoor animal holding area of the terminal facilities as expeditiously as possible.

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live dog or cat contained therein.

(c) Primary enclosures used to transport any live dog or cat shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

10. A new § 3.18 (9 CFR 3.18) is added to the standards as follows:

§ 3.18 Ambient temperature.

The ambient temperature within primary enclosures used to transport live dogs or cats shall not exceed 35° C. (95° F.) for a period of more than 45 minutes and shall not fall below 7.2° C. (45° F.) for a period of more than 45 minutes unless the person transporting such live dog or cat knows that such live dog or cat is acclimated to lower temperatures.

11. § 3.35 of the standards (9 CFR 3.35) is amended to read as follows:

§ 3.35 Consignments to carriers and intermediate handlers.

(a) Carriers and intermediate handlers shall not accept any live guinea pig or hamster presented by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or any State or local government for shipment, in commerce, more than 4 hours prior to the scheduled departure of the primary conveyance on which it is to be transported: *Provided, however,* That the carrier or intermediate handler and any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or any State or local government may mutually agree to extend the time of acceptance to not more than 6 hours if specific prior scheduling of the animal shipment to destination has been made.

(b) No carrier or intermediate handler shall accept for transportation or transport, in commerce, any live guinea pig or hamster in a primary enclosure which does not conform to the requirements set forth in § 3.36 of the standards.

(c) Carriers and intermediate handlers shall attempt to notify the consignee at least once in every 6 hour period following the arrival of any live guinea pig or hamster at the animal holding area of the terminal cargo facility. The time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee shall be recorded on the copy of the shipping document retained by the carrier or intermediate handler and on a copy of the shipping document accompanying the animal shipment.

RULES AND REGULATIONS

12. Section 3.36 of the standards (9 CFR 3.36) is amended to read as follows:

§ 3.36 Primary enclosures used to transport live guinea pigs and hamsters.

No dealer, research facility, exhibitor, or operator of an auction sale shall offer for transportation or transport, in commerce; any live guinea pig or hamster in a primary enclosure which does not conform to the following requirements:

(a) Primary enclosures, such as compartments, transport cages, cartons, or crates, used to transport live guinea pigs or hamsters shall be constructed in such a manner that (1) the structural strength of the enclosure shall be sufficient to contain the live guinea pigs or hamsters and to withstand the normal rigors of transportation; (2) the interior of the enclosure shall be free from any protrusions that could be injurious to the live guinea pigs or hamsters contained therein; (3) the inner surfaces of corrugated fiberboard, cardboard, or plastic containers shall be covered or laminated with wire mesh or screen where necessary to prevent escape of the animals; (4) the openings of such enclosures are easily accessible at all times for emergency removal of the live guinea pigs or hamsters; (5) except as provided in paragraph (i) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however,* That at least one-third of the total area providing ventilation for the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total area providing the ventilation for the primary enclosure shall be located on the upper one-half of the primary enclosure; (6) except as provided in paragraph (i) of this section, projecting rims or other devices shall be on the exterior of the outside walls with any ventilation openings to prevent obstruction of the ventilation openings and to provide a minimum air circulation space of 1.9 centimeters (.75 inches) between the primary enclosure and any adjacent cargo or conveyance wall; and (7) except as provided in paragraph (i) of this section, adequate handholds or other devices for lifting shall be provided on the exterior of the primary enclosure to enable the primary enclosure to be lifted without tilting and to ensure that the person handling the primary enclosure will not be in contact with the guinea pigs or hamsters.

(b) Live guinea pigs or hamsters transported in the same primary enclosure shall be of the same species and maintained in compatible groups.

(c) Primary enclosures used to transport live guinea pigs or hamsters shall be large enough to ensure that each animal

contained therein has sufficient space to turn about freely and to make normal postural adjustments.

(d) Not more than 15 live guinea pigs shall be transported in the same primary enclosure. No more than 50 live hamsters shall be transported in the same primary enclosure.

(e) In addition to the other provisions of this section, the following requirements shall also apply to primary enclosures used to transport live guinea pigs or hamsters:

(1) *Guinea pigs.* (i) The interior height of primary enclosures used to transport live guinea pigs weighing up to 500 grams shall be at least 15.2 centimeters (6 inches) and the interior height of primary enclosures used to transport live guinea pigs weighing over 500 grams shall be at least 17.8 centimeters (7 inches).

(ii) Each live guinea pig transported

Minimum space per live hamster

Age	Dwarf		Other	
	Square centimeters	Square inches	Square centimeters	Square inches
Weaning to 5 weeks.....	32.2	5.0	45.2	7
5 to 10 weeks.....	48.3	7.5	71.0	11
Over 10 weeks.....	58.1	9.0	96.8	15

(f) Primary enclosures used to transport live guinea pigs or hamsters as provided in this section shall have solid bottoms to prevent leakage in shipment and shall be cleaned and sanitized in a manner prescribed in § 3.31 of the standards, if previously used. Such primary enclosures shall contain clean litter of a suitable absorbent material, which is safe and nontoxic to the guinea pigs or hamsters, in sufficient quantity to absorb and cover excreta, unless the guinea pigs or hamsters are on wire or other nonsolid floors.

(g) Primary enclosures used to transport live guinea pigs or hamsters, except where such primary enclosures are permanently affixed in the animal cargo space of the primary conveyance, shall be clearly marked on top and on one or more sides with the words "Live Animals" in letters not less than 2.5 centimeters (1 inch) in height, and with arrows or other markings, to indicate the correct upright position of the container.

(h) Documents accompanying the shipment shall be attached in an easily accessible manner to the outside of a primary enclosure which is part of such shipment.

(i) When a primary enclosure is permanently affixed within the animal cargo space of the primary conveyance so that the front opening is the only source of ventilation for such primary enclosure, the front opening shall open directly to the outside or to an unobstructed aisle or passageway within the primary conveyance. Such front ventilation opening shall be at least 90 percent of the total surface area of the front wall of the primary enclosure and covered with bars, wire mesh or smooth expanded metal.

in a primary enclosure shall be provided a minimum amount of floor space in accordance with the following table:

Minimum space per live guinea pig

Weight (grams)	Square centimeters	Square inches
Up to 350.....	193.6	30
350 to 600.....	290.3	45
Over 600.....	354.8	55

(2) *Hamsters.* (i) The interior height of primary enclosures used to transport live hamsters shall be at least 15.2 centimeters (6 inches) except that in the case of dwarf hamsters such interior height shall be at least 12.7 centimeters (5 inches).

(ii) Each live hamster transported in a primary enclosure shall be provided a minimum amount of floor space in accordance with the following table:

13. Section 3.37 of the standards (9 CFR 3.37) is amended to read as follows:

§ 3.37 Primary conveyances (motor vehicle, rail, air, and marine).

(a) The animal cargo space of primary conveyances used in transporting live guinea pigs and hamsters shall be designed and constructed to protect the health, and ensure the safety and comfort of the live guinea pigs and hamsters at all times.

(b) The animal cargo space shall be constructed and maintained in a manner to prevent the ingress of engine exhaust fumes and gases from the primary conveyance during transportation in commerce.

(c) No live guinea pig or hamster shall be placed in an animal cargo space that does not have a supply of air sufficient for normal breathing for each live animal contained therein, and the primary enclosures shall be positioned in the animal cargo space in such a manner that each live guinea pig or hamster has access to sufficient air for normal breathing.

(d) Primary enclosures shall be positioned in the primary conveyance in such a manner that in an emergency the live guinea pigs or hamsters can be removed from the primary conveyance as soon as possible.

(e) The interior of the animal cargo space shall be kept clean.

(f) Live guinea pigs and hamsters shall not be transported with any material, substance (e.g., dry ice) or device which may reasonably be expected to be injurious to the health and well-being of the guinea pigs and hamsters unless proper

precaution is taken to prevent such injury.

14. § 3.38 of the standards (9 CFR 3.38) is amended to read as follows:

§ 3.38 Food and water requirements.

(a) If live guinea pigs or hamsters are to be transported for a period of more than 6 hours, the animals shall have access to food and water or a type of food, which provides the requirements for food and water in quantity and quality sufficient to satisfy their food and water needs, during transit.

(b) Any dealer, research facility, exhibitor or operator of an auction sale offering any live guinea pig or hamster to any carrier or intermediate handler for transportation, in commerce, shall provide an adequate supply of food or type of food, which provides the requirements for food and water, within the primary enclosure to meet the requirements of this section.

(c) No carrier or intermediate handler shall accept for transportation, in commerce, any live guinea pig or hamster without an adequate supply of food or type of food, which provides the requirements for food and water, within the primary enclosure to meet the requirements of this section.

15. A new § 3.39 (9 CFR 3.39) is added to the standards as follows:

§ 3.39 Care in transit.

(a) During surface transportation, it shall be the responsibility of the driver or other employee to visually observe the live guinea pigs or hamsters as frequently as circumstances may dictate, but not less than once every 4 hours, to assure that they are receiving sufficient air for normal breathing, their ambient temperatures are within the prescribed limits, all other applicable standards are being complied with and to determine whether any of the live guinea pigs or hamsters are in obvious physical distress and to provide any needed veterinary care as soon as possible. When transported by air, live guinea pigs and hamsters shall be visually observed by the carrier as frequently as circumstances may dictate, but not less than once every 4 hours, if the animal cargo space is accessible during flight. If the animal cargo space is not accessible during flight, the carrier shall visually observe the live guinea pigs or hamsters whenever loaded and unloaded and whenever the animal cargo space is otherwise accessible to assure that they are receiving sufficient air for normal breathing, their ambient temperatures are within the prescribed limits, all other applicable standards are being complied with and to determine whether any such live guinea pigs or hamsters are in obvious physical distress. The carrier shall provide any needed veterinary care as soon as possible. No guinea pig or hamster in obvious physical distress shall be transported in commerce.

(d) During the course of transportation, in commerce, live guinea pigs or hamsters shall not be removed from their primary enclosures unless placed in other

primary enclosures or facilities conforming to the requirements provided in this subpart.

16. A new § 3.40 (9 CFR 3.40) is added to the standards as follows:

§ 3.40 Terminal facilities.

(a) *Indoor facilities.* Carriers shall provide a designated indoor animal holding area which shall not be used for general cargo, but may be located within the general cargo area. The indoor animal holding area shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. The ambient temperature shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time. The indoor animal holding area shall be cleaned and sanitized in a manner prescribed in § 3.31 of the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard.

(b) *Outdoor facilities.* Carriers and intermediate handlers in transporting any live guinea pig or hamster from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(i) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live guinea pigs and hamsters from the direct rays of the sun.

(ii) *Shelter from rain or snow.* Live guinea pigs and hamsters shall be provided protection to allow them to remain dry during rain or snow.

(iii) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live guinea pigs and hamsters when the atmospheric temperature falls below 10° C. (50° F.).

17. A new § 3.41 (9 CFR 3.41) is added to the standards as follows:

§ 3.41 Handling.

(a) Carriers and intermediate handlers shall move live guinea pigs and hamsters from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility as expeditiously as possible.

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live guinea pigs or hamsters contained therein.

(c) Primary enclosures used to transport any live guinea pig or hamster shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

18. A new § 3.42 (9 CFR 3.42) is added to the standards as follows:

§ 3.42 Ambient temperature.

The ambient temperature within primary enclosures used to transport live guinea pigs or hamsters shall not exceed 20.5° C. (85° F.) for a period of more than 45 minutes nor fall below 7.2° C. (45° F.) for a period of more than 45 minutes.

19. § 3.60 of the standards (9 CFR 3.60) is amended to read as follows:

§ 3.60 Consignments to carrier and intermediate handlers.

(a) Carriers and intermediate handlers shall not accept any live rabbit presented by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or any State or local government for shipment, in commerce, more than 4 hours prior to the scheduled departure of the primary conveyance on which it is to be transported: *Provided, however,* That the carrier or intermediate handler and any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or any State or local government may mutually agree to extend the time of acceptance to not more than 6 hours if specific prior scheduling of the animal shipment to destination has been made.

(b) No carrier or intermediate handler shall accept for transportation or transport, in commerce, any live rabbit in a primary enclosure which does not conform to the requirements set forth in § 3.61 of the standards.

(c) Carriers and intermediate handlers shall attempt to notify the consignee at least once in every 6 hour period following the arrival of any live rabbit at the animal holding area of the terminal cargo facility. The time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee shall be recorded on the copy of the shipping document retained by the carrier or intermediate handler and on a copy of the shipping document accompanying the animal shipment.

20. § 3.61 of the standards (9 CFR 3.61) is amended to read as follows:

§ 3.61 Primary enclosures used to transport live rabbits.

No dealer, research facility, exhibitor, or operator of an auction sale shall offer for transportation or transport, in commerce, any live rabbit in a primary enclosure which does not conform to the following requirements:

(a) Primary enclosures, such as compartments, transport cages, cartons, or crates, used to transport live rabbits shall be constructed in such a manner that: (1) The structural strength of the enclosure shall be sufficient to contain the live rabbits and to withstand the

normal rigors of transportation; (2) The interior of the enclosure shall be free from any protrusions that could be injurious to the live rabbits contained therein; (3) The openings of such enclosures are easily accessible at all times for emergency removal of the live rabbits; (4) Except as provided in paragraph (h) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however,* That at least one-third of the total area providing ventilation for the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total area providing the ventilation for the primary enclosure shall be located on the upper one-half of the primary enclosure; (5) Except as provided in paragraph (h) of this section, projecting rims or other devices shall be on the exterior of the outside walls with any ventilation openings to prevent obstruction of the ventilation openings and to provide a minimum air circulation space 1.9 centimeters (.75 inch) between the primary enclosure and any adjacent cargo or conveyance wall; and (6) Except as provided in paragraph (h) of this section, adequate handholds or other devices for lifting shall be provided on the exterior of the primary enclosure to enable the primary enclosure to be lifted without tilting and to ensure that the person handling the primary enclosure will not be in contact with the rabbit.

(b) Live rabbits transported in the same primary enclosure shall be maintained in compatible groups and shall not be transported in the same primary enclosure with other species of animals.

(c) Primary enclosures used to transport live rabbits shall be large enough to ensure that each rabbit contained therein has sufficient space to turn about freely and to make normal postural adjustments.

(d) Not more than 15 live rabbits shall be transported in the same primary enclosure.

(e) Primary enclosures used to transport live rabbits as provided in this section shall have solid bottoms to prevent leakage in shipment and shall be cleaned and sanitized in a manner prescribed in § 3.56 of the standards, if previously used. Such primary enclosures shall contain clean litter of a suitable absorbent material which is safe and nontoxic to the rabbits, in sufficient quantity to absorb and cover excreta, unless the rabbits are on wire or other nonsolid floors.

(f) Primary enclosures used to transport live rabbits, except where such primary enclosures are permanently affixed in the animal cargo space of the primary conveyance, shall be clearly

marked on top and on one or more sides with the words "Live Animal" in letters not less than 2.5 centimeters (1 inch) in height, and with arrows or other markings, to indicate the correct upright position of the container.

(g) Documents accompanying the shipment shall be attached in an easily accessible manner to the outside of a primary enclosure which is part of such shipment.

(h) When a primary enclosure is permanently affixed within the animal cargo space of the primary conveyance so that the front opening is the only source of ventilation for such primary enclosure, the front opening shall open directly to the outside or to an unobstructed aisle or passageway within the primary conveyance. Such front ventilation opening shall be at least 90 percent of the total surface area of the front wall of the primary enclosure and covered with bars, wire mesh or smooth expanded metal.

21. Section 3.62 of the standards (9 CFR 3.62) is amended to read as follows:

§ 3.62 Primary conveyances (motor vehicle, rail, air, and marine).

(a) The animal cargo space of primary conveyances used in transporting live rabbits shall be designed and constructed to protect the health, and ensure the safety and comfort of the rabbits contained therein at all times.

(b) The animal cargo space shall be constructed and maintained in a manner to prevent the ingress of engine exhaust fumes and gases from the primary conveyance during transportation in commerce.

(c) No live rabbit shall be placed in an animal cargo space that does not have a supply of air sufficient for normal breathing for each live animal contained therein, and the primary enclosures shall be positioned in the animal cargo space in such a manner that each rabbit has access to sufficient air for normal breathing.

(d) Primary enclosures shall be positioned in the primary conveyance in such a manner that in an emergency the live rabbits can be removed from the primary conveyance as soon as possible.

(e) The interior of the animal cargo space shall be kept clean.

(f) Live rabbits shall not be transported with any material, substance (e.g., dry ice) or device which may reasonably be expected to be injurious to the health and well-being of the rabbits unless proper precaution is taken to prevent such injury.

22. Section 3.63 of the standards (9 CFR 3.63) is amended to read as follows:

§ 3.63 Food and water requirements.

(a) If live rabbits are to be transported for a period of more than 6 hours, they shall have access to food and water or a type of food, which provides the requirements for food and water in quantity and quality sufficient to satisfy their food and water needs, during transit.

(b) Any dealer, research facility, exhibitor or operator of an auction sale offering any live rabbit to any carrier or intermediate handler for transportation, in commerce, shall provide an adequate supply of food or type of food, which provides the requirements for food and water, within the primary enclosure to meet the requirements of this section.

(c) No carrier or intermediate handler shall accept for transportation, in commerce, any live rabbit without an adequate supply of food or type of food, which provides the requirements for food and water, within the primary enclosure to meet the requirements of this section.

23. A new § 3.64 (9 CFR 3.64) is added to the standards as follows:

§ 3.64 Care in transit.

(a) During surface transportation, it shall be the responsibility of the driver or other employee to visually observe the live rabbits as frequently as circumstances may dictate, but not less than once every 4 hours, to assure that they are receiving sufficient air for normal breathing, their ambient temperatures are within the prescribed limits, all other applicable standards are being complied with and to determine whether any of the live rabbits are in obvious physical distress and to provide any needed veterinary care as soon as possible. When transported by air, live rabbits shall be visually observed by the carrier as frequently as circumstances may dictate, but not less than once every 4 hours, if the cargo space is accessible during flight. If the animal cargo space is not accessible during flight, the carrier shall visually observe the live rabbits whenever loaded and unloaded and whenever the animal cargo space is otherwise accessible to assure that they are receiving sufficient air for normal breathing, their ambient temperatures are within the prescribed limits, all other applicable standards are being complied with and to determine whether any such live rabbits are in obvious physical distress. The carrier shall provide any needed veterinary care as soon as possible. No rabbit in obvious physical distress shall be transported in commerce.

(b) During the course of transportation, in commerce, live rabbits shall not be removed from their primary enclosures unless placed in other primary enclosures or facilities conforming to the requirements provided in this subpart.

24. A new § 3.65 (9 CFR 3.65) is added to the standards as follows:

§ 3.65 Terminal facilities.

(a) *Indoor facilities.* Carriers shall provide a designated indoor animal holding area which shall not be used for general cargo, but may be located within the general cargo area. The indoor animal holding area shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and mois-

ture condensation. The ambient temperature shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time. The indoor animal holding area shall be cleaned and sanitized in a manner prescribed in § 3.56 of the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard.

(b) *Outdoor facilities.* Carriers and intermediate handlers in transporting any live rabbit from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(i) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live rabbits from the direct rays of the sun.

(ii) *Shelter from rain or snow.* Live rabbits shall be provided protection to allow them to remain dry during rain or snow.

(iii) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live rabbits when the atmospheric temperature falls below 10° C. (50° F.).

25. A new § 3.66 (9 CFR 3.66) is added to the standards as follows:

§ 3.66 Handling.

(a) Carriers and intermediate handlers shall move live rabbits from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility as expeditiously as possible.

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live rabbits contained therein.

(c) Primary enclosures used to transport any live rabbit shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

26. A new § 3.67 (9 CFR 3.67) is added to the standards as follows:

§ 3.67 Ambient temperature.

The ambient temperature within primary enclosures used to transport live rabbits shall not exceed 20.5° C. (85° F.) for a period of more than 45 minutes nor fall below 7.2° C. (45° F.) for a period of more than 45 minutes unless the person transporting such live rabbits knows that such live rabbits are acclimated to lower temperatures.

27. Section 3.85 of the standards (9 CFR 3.85) is amended to read as follows:

§ 3.85 Consignments to carriers and intermediate handlers.

(a) Carriers and intermediate handlers shall not accept any live nonhuman

primate presented by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or any State or local government for shipment, in commerce, more than 4 hours prior to the scheduled departure of the primary conveyance on which it is to be transported: *Provided, however,* That the carrier or intermediate handler and any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or any State or local government may mutually agree to extend the time of acceptance to not more than 6 hours if specific prior scheduling of the animal shipment to destination has been made.

(b) No carrier or intermediate handler shall accept for transportation or transport, in commerce, any live nonhuman primate in a primary enclosure which does not conform to the requirements set forth in § 3.86 of this part.

(c) Carriers and intermediate handlers shall attempt to notify the consignee at least once in every 6 hour period following the arrival of any live nonhuman primate at the animal holding area of the terminal cargo facility. The time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee shall be recorded on the copy of the shipping document retained by the carrier or intermediate handler and on a copy of the shipping document accompanying the animal shipment.

28. Section 3.86 of the standards (9 CFR 3.86) is amended to read as follows:

§ 3.86 Primary enclosures used to transport live nonhuman primates.

No dealer, research facility, exhibitor, or operator of an auction sale shall offer for transportation or transport, in commerce, any live nonhuman primate in a primary enclosure which does not conform to the following requirements:

(a) Primary enclosures, such as compartments, transport cages, cartons, or crates, used to transport live nonhuman primates shall be constructed in such a manner that (1) the structural strength of the enclosure shall be sufficient to contain the live nonhuman primate and to withstand the normal rigors of transportation; (2) the interior of the enclosure shall be free from any protrusions that could be injurious to the live nonhuman primate contained therein; (3) no part of the live nonhuman primate will be exposed outside of the primary enclosure which may cause injury to the animal or to persons who are nearby or who handle the primary enclosure; (4) the openings of such enclosures are easily accessible at all times for emergency removal of the live nonhuman primates; (5) the openings which provide access into the primary enclosure shall be secured with locking devices capable of preventing accidental openings; (6) except as provided in paragraph (h) of this section, there are ventilation openings located on two oppo-

site walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however,* That at least one-third of the total area providing ventilation for the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total area providing the ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; (7) except as provided in paragraph (h) of this section, projecting rims or other devices shall be on the exterior of the outside walls with any ventilation openings to prevent obstruction of the ventilation openings and to provide a minimum air circulation space of 1.9 centimeters (.75 inches) between the primary enclosure and any adjacent cargo or conveyance wall; and (8) except as provided in paragraph (h) of this section, adequate handholds or other devices for lifting shall be provided on the exterior of the primary enclosure to enable the primary enclosure to be lifted without tilting and to ensure that the person handling the primary enclosure will not be in contact with the nonhuman primate.

(b) Live nonhuman primates transported in the same primary enclosure shall be of the same species and maintained in compatible groups. Nonhuman primates which have not reached puberty shall not be transported in the same primary enclosures with adult nonhuman primates other than their dams. Any female nonhuman primate in season (estrus) shall not be transported in the same primary enclosure with any male nonhuman primate.

(c) Primary enclosures used to transport live nonhuman primates shall be large enough to ensure that each animal contained therein has sufficient space to turn about freely in a stance whereby both feet and hands are on the floor and can sit in an upright position: *Provided, however,* That certain larger species may be restricted in their movements according to professionally acceptable standards when such freedom of movement would constitute a danger to the live nonhuman primates, their handlers, or other persons.

(d) No more than ten live nonhuman primates shall be transported in a primary enclosure.

(e) Primary enclosures used to transport live nonhuman primates as provided in this section shall have solid bottoms to prevent leakage in shipment and shall be cleaned and sanitized in a manner prescribed in § 3.81 of this part, if previously used. Such primary enclosures shall contain clean litter of a suitable absorbent material, which is safe and nontoxic to nonhuman primates, in sufficient quantity to absorb and cover excreta, unless the nonhuman primates are on wire or other nonsolid floors.

(f) Primary enclosures used to transport live nonhuman primates, except where such primary enclosures are permanently affixed in the animal cargo space of the primary conveyance, shall be clearly marked on top and on one or more sides with the words "Wild Animals" in letters not less than 2.5 centimeters (1 inch) in height, and with arrows or other markings, to indicate the correct upright position of the container.

(g) Documents accompanying the shipment shall be attached in an easily accessible manner to the outside of a primary enclosure which is part of such shipment.

(h) When a primary enclosure is permanently affixed within the animal cargo space of the primary conveyance so that the front opening is the only source of ventilation for such primary enclosure, the front opening shall open directly to the outside or to an unobstructed aisle or passageway within the primary conveyance. Such front ventilation opening shall be at least 90 percent of the total surface area of the front wall of the primary enclosure and covered with bars, wire mesh or smooth expanded metal.

29. § 3.87 of the standards (9 CFR 3.87) is amended to read as follows:

§ 3.87 Primary conveyances (motor vehicle, rail, air, and marine).

(a) The animal cargo space of primary conveyances used in transporting live nonhuman primates shall be designed and constructed to protect the health, and ensure the safety and comfort of the nonhuman primates contained therein at all times.

(b) The animal cargo space shall be constructed and maintained in a manner to prevent the ingress of engine exhaust fumes and gases from the primary conveyance during transportation in commerce.

(c) No live nonhuman primate shall be placed in an animal cargo space that does not have a supply of air sufficient for normal breathing for each live animal contained therein, and the primary enclosures shall be positioned in the animal cargo space in such a manner that each nonhuman primate has access to sufficient air for normal breathing.

(d) Primary enclosures shall be positioned in the primary conveyance in such a manner that in an emergency the live nonhuman primates can be removed from the primary conveyance as soon as possible.

(e) The interior of the animal cargo space shall be kept clean.

(f) Live nonhuman primates shall not be transported with any material, substance (e.g., dry ice) or device which may reasonably be expected to be injurious to the health and well-being of the nonhuman primates unless proper precaution is taken to prevent such injury.

30. § 3.88 of the standards (9 CFR 3.88) is amended to read as follows:

§ 3.88 Food and water requirements.

(a) All live nonhuman primates shall be offered potable water within 4 hours

prior to being transported in commerce. Dealers, exhibitors, research facilities and operators of auction sales shall provide potable water to all live nonhuman primates transported in their own primary conveyance at least every 12 hours after such transportation is initiated, and carriers and intermediate handlers shall provide potable water to all live nonhuman primates at least every 12 hours after acceptance for transportation in commerce.

(b) Each live adult nonhuman primate over 1 year of age shall be fed at least once in each 24 hour period. Live nonhuman primates less than 1 year of age shall have food made available to them every 12 hours. The time periods provided for in this paragraph shall apply to carriers and intermediate handlers after acceptance of any live nonhuman primates for transportation, in commerce, and shall apply to dealers, exhibitors, research facilities, and operators of auction sales who transport live nonhuman primates in their own primary conveyance after such transportation is initiated.

(c) Any dealer, research facility, exhibitor or operator of an auction sale offering any live nonhuman primate to any carrier or intermediate handler for transportation in commerce shall affix to the outside of the primary enclosure used for transporting such nonhuman primate, written instructions concerning the food and water requirements of such nonhuman primate while being so transported.

(d) No carrier or intermediate handler shall accept any live nonhuman primate for transportation in commerce unless written instructions concerning the food and water requirements of such nonhuman primate while being so transported is affixed to the outside of its primary enclosure.

31. A new § 3.89 (9 CFR 3.89) is added to the standards as follows:

§ 3.89 Care in transit.

(a) During surface transportation, it shall be the responsibility of the driver or other employee to visually observe the live nonhuman primates as frequently as circumstances may dictate, but not less than once every 4 hours, to assure that they are receiving sufficient air for normal breathing, their ambient temperatures are within the prescribed limits, all other applicable standards are being complied with and to determine whether any of the live nonhuman primates are in obvious physical distress and to provide any needed veterinary care as soon as possible. When transported by air, live nonhuman primates shall be visually observed by the carrier as frequently as circumstances may dictate, but not less than once every 4 hours, if the animal cargo space is accessible during flight. If the animal cargo space is not accessible during flight, the carrier shall visually observe the live nonhuman primates whenever loaded and unloaded and whenever the animal cargo space is otherwise accessible to assure that they are receiving sufficient air for

normal breathing, their ambient temperatures are within the prescribed limits, all other applicable standards are being complied with and to determine whether any such live nonhuman primates are in obvious physical distress. The carrier shall provide any needed veterinary care as soon as possible. No nonhuman primate in obvious physical distress shall be transported in commerce.

(b) During the course of transportation, in commerce, live nonhuman primates shall not be removed from their primary enclosures unless placed in other primary enclosures of facilities conforming to the requirements provided in this subpart.

32. A new § 3.90 (9 CFR 3.90) is added to the standards as follows:

§ 3.90 Terminal facilities.

(a) *Indoor facilities.* Carriers shall provide a designated indoor animal holding area which shall not be used for general cargo, but may be located within the general cargo area. The indoor animal holding area shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be ventilated or air circulated by means of fans, blowers, or an air conditioning system so to minimize drafts, odors, and moisture condensation. The ambient temperature shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) for more than 4 hours and shall not exceed 35° C. (95° F.) at any time. The indoor animal holding area shall be cleaned and sanitized in a manner prescribed in § 3.81 of the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard.

(b) *Outdoor facilities.* Carriers and intermediate handlers in transporting any live nonhuman primate from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(i) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live nonhuman primates from the direct rays of the sun.

(ii) *Shelter from rain or snow.* Live nonhuman primates shall be provided protection to allow them to remain dry during rain or snow.

(iii) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live nonhuman primates when the atmospheric temperature falls below 10° C. (50° F.).

33. A new § 3.91 (9 CFR 3.91) is added to the standards as follows:

§ 3.91 Handling.

(a) Carriers and intermediate handlers shall move live nonhuman primates from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary

conveyance to the indoor animal holding area of the terminal facilities as expeditiously as possible.

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live nonhuman primate contained therein.

(c) Primary enclosures used to transport any live nonhuman primates shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

34. A new § 3.67 (9 CFR 3.67) is added to the standards as follows:

§ 3.67 Ambient temperature.

The ambient temperature within such primary enclosures used to transport live nonhuman primates shall not exceed 35° C. (95° F.) for a period of more than 45 minutes, and shall not fall below 7.2° C. (45° F.) for a period of more than 45 minutes unless the person transporting such live nonhuman primates knows that such live nonhuman primate is acclimated to lower temperatures.

35. Section 3.111 of the standards (9 CFR 3.111) is amended to read as follows:

§ 3.111 Consignments to carriers and intermediate handlers.

(a) Carriers and intermediate handlers shall not accept any live animals presented by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or any State or local government for shipment, in commerce, more than 4 hours prior to the scheduled departure of the primary conveyance on which it is to be transported: *Provided, however*, That the carrier or intermediate handler and any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or any State or local government may mutually agree to extend the time of acceptance to not more than 6 hours if specific prior scheduling of the animal shipment to destination has been made.

(b) No carrier or intermediate handler shall accept for transportation or transport, in commerce, any live animals in a primary enclosure which does not conform to the requirements set forth in § 3.112 of this part.

(c) Carriers and intermediate handlers shall attempt to notify the consignee at least once in every 6 hour period following the arrival of any live animals at the animal holding area of the terminal cargo facility. The time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee shall be recorded on the copy of the shipping document retained by the carrier or intermediate handler and on a copy of the shipping document accompanying the animal shipment.

36. § 3.112 of the standards (9 CFR 3.112) is amended to read as follows:

§ 3.112 Primary enclosures used to transport live animals.

No dealer, research facility, exhibitor, or operator of an auction sale shall offer for transportation or transport, in commerce, any live animal in a primary enclosure which does not conform to the following requirements:

(a) Primary enclosures, such as compartments, transport cages, cartons, or crates, used to transport live animals shall be constructed in such a manner that (1) the structural strength of the enclosure shall be sufficient to contain the live animals and to withstand the normal rigors of transportation; (2) the interior of the enclosure shall be free from any protrusions that could be injurious to the live animals contained therein; (3) the openings of such enclosures are easily accessible at all times for emergency removal of the live animals; (4) except as provided in paragraph (g) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however*, That at least one-third of the total area providing ventilation for the primary enclosures shall be located on the lower one-half of the primary enclosure and at least one-third of the total area providing the ventilation for the primary enclosure shall be located on the upper one-half of the primary enclosure; (5) except as provided in paragraph (g) of this section, projecting rims or other devices shall be on the exterior of the outside walls with any ventilation openings to prevent obstruction of the ventilation openings and to provide a minimum air circulation space of 1.9 centimeters (.75 inch) between the primary enclosure and any adjacent cargo or conveyance wall; and (6) except as provided in paragraph (g) of this section, adequate handholds or other devices for lifting shall be provided on the exterior of the primary enclosure to enable the primary enclosure to be lifted without tilting and to ensure that the person handling the primary enclosure will not be in contact with the animal.

(b) Live animals transported in the same primary enclosure shall be of the same species and maintained in compatible groups. Live animals that have not reached puberty shall not be transported in the same primary enclosure with adult animals other than their dams. Socially dependent animals (e.g., sibling, dam, and other members of a family group) must be allowed visual and olfactory contact. Any female animal in season

(estrus) shall not be transported in the same primary enclosure with any male animal.

(c) Primary enclosures used to transport live animals shall be large enough to ensure that each animal contained therein has sufficient space to turn about freely and to make normal postural adjustments: *Provided, however*, That certain species may be restricted in their movements according to professionally acceptable standards when such freedom of movement would constitute a danger to the animals, their handlers, or other persons.

(d) Primary enclosures used to transport live animals as provided in this section shall have solid bottoms to prevent leakage in shipment and shall be cleaned and sanitized in a manner prescribed in § 3.106 of the standards, if previously used. Such primary enclosures shall contain clean litter of a suitable absorbent material, which is safe and nontoxic to the live animals contained therein, in sufficient quantity to absorb and cover excreta, unless the animals are on wire or other nonsolid floors.

(e) Primary enclosures used to transport live animals, except where such primary enclosures are permanently affixed in the animal cargo space of the primary conveyance, shall be clearly marked on top and on one or more sides with the words "Live Animal" or "Wild Animal", whichever is appropriate, in letters not less than 2.5 centimeters (1 inch) in height, and with arrows or other markings, to indicate the correct upright position of the container.

(f) Documents accompanying the shipment shall be attached in an easily accessible manner to the outside of a primary enclosure which is part of such shipment.

(g) When a primary enclosure is permanently affixed within the animal cargo space of the primary conveyance so that the front opening is the only source of ventilation for such primary enclosure, the front opening shall open directly to the outside or to an unobstructed aisle or passageway within the primary conveyance. Such front ventilation opening shall be at least 90 percent of the total surface area of the front wall of the primary enclosure and covered with bars, wire mesh or smooth expanded metal.

37. Section 3.113 of the standards (9 CFR 3.113) is amended to read as follows:

§ 3.113 Primary conveyances (motor vehicle, rail, air, and marine).

(a) The animal cargo space of primary conveyances used in transporting live animals shall be designed and constructed to protect the health, and ensure the safety and comfort of the live animals contained therein at all times.

(b) The animal cargo space shall be constructed and maintained in a manner to prevent the ingress of engine exhaust fumes and gases from the primary conveyance during transportation in commerce.

(c) No live animal shall be placed in an animal cargo space that does not have a supply of air sufficient for normal breathing for each live animal contained therein, and the primary enclosures shall be positioned in the animal cargo space in such a manner that each live animal has access to sufficient air for normal breathing.

(d) Primary enclosures shall be positioned in the primary conveyance in such a manner that in an emergency the live animals can be removed from the primary conveyance as soon as possible.

(e) The interior of the animal cargo space shall be kept clean.

(f) Live animals shall not be transported with any material, substance (e.g., dry ice) or device which may reasonably be expected to be injurious to the health and well-being of the animals unless proper precaution is taken to prevent such injury.

38. Section 3.114 of the standards (9 CFR 3.114) is amended to read as follows:

§ 3.114 Food and water requirements.

(a) All live animals shall be offered potable water within 4 hours prior to being transported in commerce. Dealers, exhibitors, research facilities and operators of auction sales shall provide potable water to all live animals transported in their own primary conveyance at least every 12 hours after such transportation is initiated, and carriers and intermediate handlers shall provide potable water to all live animals at least every 12 hours after acceptance for transportation in commerce: *Provided, however,* That except as directed by hibernation, veterinary treatment or other professionally accepted practices, those live animals which, by common accepted practices, require watering more frequently shall be so watered.

(b) Each live animal shall be fed at least once in each 24 hour period, except as directed by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices. Those live animals which, by common accepted practice, require feeding more frequently shall be so fed.

(c) A sufficient quantity of food and water shall accompany the live animal to provide food and water for such animals for a period of at least 24 hours, except as directed by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

(d) Any dealer, research facility, exhibitor or operator of an auction sale offering any live animal to any carrier or intermediate handler for transportation in commerce shall affix to the outside of the primary enclosure used for transporting such live animal, written instructions concerning the food and water requirements of such animal while being so transported.

(e) No carrier or intermediate handler shall accept any live animals for transportation in commerce unless written instructions concerning the food and water requirements of such animal while being so transported is affixed to the outside of its primary enclosure.

39. A new § 3.115 (9 CFR 3.115) is added to the standards as follows:

§ 3.115 Care in transit.

(a) During surface transportation, it shall be the responsibility of the driver or other employee to visually observe the live animals as frequently as circumstances may dictate, but not less than once every 4 hours, to assure that they are receiving sufficient air for normal breathing, their ambient temperatures are within the prescribed limits, all other applicable standards are being complied with and to determine whether any of the live animals are in obvious physical distress and to provide any needed veterinary care as soon as possible. When transported by air, live animals shall be visually observed by the carrier as frequently as circumstances may dictate, but not less than once every 4 hours, if the animal cargo space is accessible during flight. If the animal cargo space is not accessible during flight, the carrier shall visually observe the live animals whenever loaded and unloaded and whenever the animal cargo space is otherwise accessible to assure that they are receiving sufficient air for normal breathing, their ambient temperatures are within the prescribed limits, all other applicable standards are being complied with and to determine whether any such live animals are in obvious physical distress. The carrier shall provide any needed veterinary care as soon as possible. No animal in obvious physical distress shall be transported in commerce.

(b) Wild or otherwise dangerous animals shall not be taken from their primary enclosure except under extreme emergency conditions: *Provided, however,* That a temporary primary enclosure may be used, if available, and such temporary primary enclosure is structurally strong enough to prevent the escape of the animal. During the course of transportation, in commerce, live animals shall not be removed from their primary enclosures unless placed in other primary enclosures or facilities conforming to the requirements provided in this subpart.

40. A new § 3.116 (9 CFR 3.116) is added to the standards as follows:

§ 3.116 Terminal facilities.

(a) *Indoor facilities.* Carriers shall provide a designated indoor animal holding area which shall not be used for general cargo, but may be located within the general cargo area. The indoor

animal holding area shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. The ambient temperature shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) for more than 4 hours and shall not exceed 35° C. (95° F.) at any time. The indoor animal holding area shall be cleaned and sanitized in a manner prescribed in § 3.106 of the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard.

(b) *Outdoor facilities.* Carriers and intermediate handlers in transporting any live animal from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(i) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live animals from the direct rays of the sun.

(ii) *Shelter from rain or snow.* Live animals shall be provided protection to allow them to remain dry during rain or snow.

(iii) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live animals when the atmospheric temperature falls below 10° C. (50° F.).

41. A new § 3.117 (9 CFR 3.117) is added to the standards as follows:

§ 3.117 Handling.

(a) Carriers and intermediate handlers shall move live animals from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility as expeditiously as possible.

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live animal contained therein.

(c) Primary enclosures used to transport any live animal shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

42. A new § 3.118 (9 CFR 3.118) is added to the standards as follows:

§ 3.118 Ambient temperature.

The ambient temperature within primary enclosures used to transport live

animals shall not exceed 35° C. (95° F.) for a period of more than 45 minutes and shall not fall below 7.2° C. (45° F.) for a period of more than 45 minutes unless the person transporting such live animals knows that such live animals are acclimated to lower or higher temperatures.

(Secs. 3, 5, 6, 10, 11, 12, 13, 14, 16, 17, 21; 80 Stat. 351, 352, 353; 84 Stat. 1561, 1562, 1563, 1564; 90 Stat. 418, 419, 420, 423; (7 U.S.C. 2133, 2135, 2136, 2140, 2141, 2142, 2143, 2144, 2146, 2147, 2151); 37 FR 28464, 28477, 38 FR 19141.)

It does not appear that further public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public procedure with respect to these amendments are impracticable and unnecessary.

Done at Washington, D.C., this 16th day of June 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

DALE F. SCHWINDAMAN,
Acting Deputy Administrator,
Veterinary Services.

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