

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT
HEALTH INSPECTION SERVICE, DE-
PARTMENT OF AGRICULTURE

SUBCHAPTER A—ANIMAL WELFARE

PART 3—STANDARDS

Revision of Standards for Transporta-
tion, and the Handling, Care, and
Treatment in Connection Therewith,
of Dogs, Cats, Rabbits, Hamsters,
Guinea Pigs, Nonhuman Primates,
and Certain Other Warmblooded
Animals.

AGENCY: Animal and Plant Health
Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the transportation standards governing certain live warmblooded animals under the Animal Welfare Act, published in the FEDERAL REGISTER on June 21, 1977 (42 FR 31556-31571). The amendments concern compliance with standards for primary enclosures used to transport certain animals in commerce by carriers and intermediate handlers, the optional use of certificates of animal acclimation to temperature extremes, the use of primary enclosures with ventilation openings on three walls for transporting dogs and cats, and the standards for the animal holding area of terminal facilities. The revision contained herein are the result of various petitions for reconsideration received by the Department after publication of the transportation standards in the FEDERAL REGISTER on June 21, 1977, which made new facts and evidence available to the Department which appeared to warrant this action.

DATE: Effective date May 16, 1978.

FOR FURTHER INFORMATION
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SUPPLEMENTARY INFORMATION:
On October 14, 1977, APHIS published
a notice of proposed rulemaking con-
taining changes and additions to Part
3 of Subchapter A, Chapter I, Title 9
of the Code of Federal Regulations (42
FR 55221-55226) which would (1)
revise the requirements for accepting
for transportation and transporting in
commerce by carriers and intermedi-

ate handlers of certain warmblooded
animals, by allowing them to accept
and to rely on certification by consign-
ors of such animals: (a) animal accli-
mation to temperature extremes and
(b) compliance with the standards for
the primary enclosure or shipping con-
tainer, when such certification is pre-
sented by U.S. Department of Agricul-
ture (USDA) licensees and registrants
or any department, agency, or instru-
mentality of the United States having
laboratory animal facilities or exhibit-
ing animals; (2) provide for the use of
primary enclosures with ventilation
openings located on three walls to
transport dogs and cats; and (3) revise
the requirements for the animal hold-
ing area in transportation terminal fa-
cilities concerning the commingling of
general cargo with animal shipments
and clarify terminology associated
with temperatures.

A total of 10 comments were re-
ceived within the comment period in
response to the proposed changes. Al-
though the number of comments re-
ceived was relatively small, they repre-
sented many interest groups; i.e., carri-
ers, the biomedical community, zoolog-
ical parks and aquariums, an animal
shipping container manufacturer, pet
animal dealers, humane groups, and a
Member of Congress. Many of the
comments raised questions or made
suggestions which, because of their va-
lidity, warranted some changes of the
proposed standards. Certain other edi-
torial changes were also made for
clarification.

DISCUSSION OF MAJOR PROPOSED ITEMS
AND COMMENTSCERTIFICATES OF COMPLIANCE FOR
PRIMARY ENCLOSURES

The present transportation stand-
ards (9 CFR 3.11 et seq.) require that
no carrier or intermediate handler
accept for transportation or transport,
in commerce, any animal in a primary
enclosure that does not conform to
the requirements set forth in the
standards. As a result of petitions for
reconsideration received by the De-
partment, APHIS proposed to review
the standards to give the option to car-
riers and intermediate handlers to
accept for transportation and trans-
port, in commerce, any dog, cat,
rabbit, guinea pig, hamster, nonhu-
man primate, and certain other warm-
blooded animals in a primary enclo-
sure when consigned by any licensed
or registered dealer, research facility,
exhibitor, operator of an auction sale,
or by any department, agency, or in-
strumentality of the United States
having laboratory animal facilities or
exhibiting animals, if such consignor
certifies that the primary enclosure
meets the requirements of the stand-
ards for such animals. Such certifica-
tion would make the consignor respon-
sible for assuring that the primary en-

closure complies with the standards,
unless the enclosure is so obviously de-
fective or damaged that it cannot rea-
sonably be expected to safely contain
an animal.

One comment, while acknowledging
the benefits of a certificate of compli-
ance for primary enclosures, ques-
tioned the anticipated confusion,
delay, and compromise of the purpose
of its use if a standard form for certifi-
cation is not provided by the Depart-
ment of Agriculture. APHIS believes
that a certificate of compliance which
is consistent in format and includes an
appropriate certifying statement rela-
tive to the required standards for a
shipping container for live warmblood-
ed animals can be provided by the reg-
ulated carriers or intermediate han-
dlers for use by USDA licensees and
registrants and Federal departments,
agencies, and instrumentalities having
laboratory animals or exhibiting ani-
mals; therefore, APHIS does not
intend to provide such a form at this
time. However, the information re-
quired to complete an acceptable cer-
tificate is explained in this amend-
ment.

Another comment expressed concern
that a consignor could falsely certify
that a primary enclosure is in compli-
ance with the standards and, in such
cases, questioned the Department's
legal authority for followup regula-
tory action. Since certification of pri-
mary enclosures will be limited to con-
signors who are subject to the Animal
Welfare Act, any violation which
might be perpetrated by such consign-
ors of live animal shipments is subject
to penalties as provided by the Act.

CERTIFICATES OF ANIMAL TEMPERATURE
ACCLIMATION

The present transportation stand-
ards provide for a range of ambient
temperatures which would be allowed
within primary enclosures and other
areas involved in the transportation of
live animals. APHIS recognizes, how-
ever, that certain warmblooded ani-
mals can withstand temperatures
above the prescribed limits of the am-
bient temperature ranges for short pe-
riods of time. APHIS also recognizes
the fact that certain animals can with-
stand temperatures below the pre-
scribed limits for a longer period of
time. The air carriers criticized APHIS
for not indicating a specific acceptable
procedure whereby the carriers or in-
termediate handlers could accept cer-
tain species of warmblooded animals
which had spent their lives in an out-
door environment and were acclimated
to temperatures less than 45° F for
transportation in commerce when the
carrier's or intermediate handler's fa-
cilities fail to provide the minimum al-
lowed temperature in the animal hold-
ing areas.

APHIS is, therefore, amending
§§ 3.11(b), 3.35(b), 3.60(b), and 3.85(b)

relative to consignments to carriers and intermediate handlers of live dogs or cats, hamsters, rabbits, nonhuman primates, and certain other warm-blooded animals, with the exception of guinea pigs, which allows carriers and intermediate handlers whose facilities fail to provide the minimum allowed temperature in the animal holding areas, the option of accepting for transportation and transporting such animals consigned by any licensed or registered dealer, research facility, exhibitor, operator of an auction sale or by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals, if such consignor furnishes a certificate executed by a licensed veterinarian on a specified date, which shall not be more than 10 days prior to delivery for transportation, stating that such live animal is acclimated to air temperatures lower than 7.2° C (45° F). Guinea pigs are excepted because they are not tolerant of low temperatures. Information required to complete an acceptable certificate of animal temperature acclimation for dogs, cats, hamsters, rabbits, nonhuman primates, and certain other warmblooded animals is indicated in these amendments. Such certification of temperature acclimation is limited to consignors who are subject to the Animal Welfare Act, and any violation which may be committed by such consignors of live animal shipments is subject to penalties provided by the Act. Other persons, such as private pet owners, are not subject to the Act or the regulations and standards.

LIVE ANIMAL SHIPPING CONTAINERS WITH VENTILATION OPENINGS ON THREE SIDES

Comments received supported the proposed amendments to the standards concerning ventilation of live animal shipping containers for dogs and cats having ventilation openings on three sides. Therefore, in addition to the present standards for shipping containers having ventilation openings located either on each of two opposite walls or on each of four walls, APHIS is providing herein that primary enclosures having ventilation openings located on three sides shall have such ventilation openings of at least 8 percent of the total surface area of two opposite walls and at least 50 percent of the total surface area of the third wall.

ANIMAL HOLDING AREAS OF TERMINAL FACILITIES

In its proposed amendments of the present standards APHIS provided that carriers and intermediate handlers shall maintain all animal shipments in one holding area of a terminal facility at any one time and that animal shipments shall not be commingled with inanimate cargo at any

terminal facility. This proposal was an amendment to the present standards which require carriers to designate an indoor animal holding area within terminal facilities which shall not be used for general cargo, but may be located within the general cargo area. Carriers commented that the proposal for a single animal holding area would establish an unduly cumbersome procedure for processing animal shipments through terminal facilities in that both "inbound" and "outbound" live animal shipments would be maintained in the same area. The resulting confusion in the terminal area would impair expeditious processing of animal shipments, especially since carriers also have to segregate "outbound" shipments from "inbound" shipments to make accurate calculations relative to aircraft weight and balance requirements. Other comments indicated possible problems of the proximity of incompatible species of animals to each other if all live animal shipments are kept in one single area. Therefore, this amendment does not require that all live animal shipments be maintained in the one animal holding area of a terminal facility of any carrier or intermediate handler. However, the standards do indicate that an animal holding area is where live animal shipments are maintained and that an effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for such animal holding area.

The proposed amendments to the standards for terminals contained requirements for auxiliary ventilation when the atmospheric temperature within the animal holding area is 29.5° C. (85° F.), or higher, and also contained requirements relative to the ambient temperature around the live animal in the holding area. Several comments were critical of the usage of different modifying terms, i.e., "atmospheric" and "ambient," relative to the term "temperature" in the proposed amendments to the standards for the animal holding area in the terminal and labeled such usage as "confusing." APHIS is, therefore, in §§ 3.16, 3.40, 3.65, 3.90, and 3.116, substituting the term "air" for the words "atmospheric" and "ambient" used to describe the temperature requirements for the animal holding area in the terminal. Also, for the sake of simplicity, APHIS is changing the term "atmospheric temperature" to "outdoor air temperature" in §§ 3.17(a)(3), 3.41(a)(3), 3.66(a)(3), 3.91(a)(3), and 3.117(a)(3).

The proposed amendments to the standards indicated that the animal holding area shall be provided with fresh air by means of windows, doors, vents, or air conditioning. Further, in order to minimize drafts, odors, and

moisture condensation in the animal holding area, the proposed amendments indicated that ventilation or air circulation be accomplished by fans, blowers, or an air conditioning system. APHIS did not intend, however, that minimizing drafts, odors, and moisture condensation be accomplished only by fans, blowers, or an air conditioning system, but intended that these mechanical methods could be used for this purpose at the option of the carriers and intermediate handlers. Therefore, this amendment reflects the optional use of such equipment by the term "may be" rather than "shall be."

One comment indicated that the proposed amendments to the standards would require carriers and intermediate handlers to provide auxiliary ventilation equipment in the animal holding areas even if the temperature within such animal holding areas never reached 85° F. APHIS acknowledges that the proposal as written could be interpreted to require auxiliary ventilation equipment for transportation terminal animal holding areas when the air temperature reaches 85° F. or higher, even though there could be terminals located in climates where such auxiliary ventilation would never be needed. APHIS has therefore clarified this part of the standards for terminal facilities by indicating that auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live animals when the air temperature within such animal holding area is 29.5° C. (85° F.), or higher.

Accordingly, the standards (9 CFR 3.1 et seq.) are amended in the following respects:

§ 3.11 Consignments to carriers and intermediate handlers. [Amended]

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

• • • • •
 (b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live dog or cat in a primary enclosure which conforms to the requirements set forth in § 3.12 of the standards: *Provided, however,* That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live dog or cat consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals, or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale, if such consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with

§ 3.12 of the standards, unless such primary enclosure is obviously defective or damaged and it is apparent that it cannot reasonably be expected to contain the live dog or cat without causing suffering or injury to such live dog or cat. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) Tag number or tattoo assigned to each dog or cat pursuant to §§ 2.50 and 2.54 of the regulations;

(3) A certifying statement (e.g., "I hereby certify that the (number) primary enclosure(s) which are used to transport the animal(s) in this shipment complies (comply) with USDA standards for primary enclosures (9 CFR Part 3)."); and

(4) The signature of the consignor, and date.

2-Section 3.11(c) of the standards (9 CFR 3.11(c)) is amended to read as follows:

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards, may accept for transportation or transport, in commerce, any live dog or cat consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate executed by a licensed veterinarian on a specified date which shall not be more than 10 days prior to delivery of such dog or cat for transportation in commerce, stating that such live dog or cat is acclimated to lower air temperatures than prescribed in §§ 3.16 and 3.18. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) Tag number or tattoo assigned to each dog or cat pursuant to §§ 2.50 and 2.54 of the regulations;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45° F.)."); and

(4) The signature of the licensed veterinarian, and date.

3. A new § 3.11(d) (9 CFR 3.11(d)) is added to the standards as follows:

(d) 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 of intermediate handler and on a copy of the shipping document accompanying the animal shipment.

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

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

(a) " * * * (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 on three walls of the primary enclosure and the ventilation openings on two opposite walls of the primary enclosure shall be at least 8 percent of the total surface area of each such wall and the ventilation openings on the third wall of the primary enclosure shall be at least 50 percent of the total surface area of 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 minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; * * * "

5. Section 3.16 of the standards (9 CFR 3.16) is amended to read as follows:

§ 3.16 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal fa-

cility of any carrier or intermediate handler wherein live animal shipments are maintained 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, to minimize vermin infestation, and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live dogs or cats shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live dogs and cats when the air temperature within such animal holding area is 29.5° C. (85° F.) or higher. The air temperature around any live dog or cat in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 35° C. (95° F.) at any time: *Provided, however,* That no live dog or cat shall be subjected to air temperatures in excess of 29.5° C. (85° F.) for more than 4 hours at any time.

6. Section 3.17 of the standards (9 CFR 3.17) is amended to read as follows:

§ 3.17 Handling.

(a) Carriers and intermediate handlers shall move live dogs and cats from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live dog or cat in an animal holding area of a terminal facility or in transporting any live dog or cat from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *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.

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

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

(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.

§ 3.35 Consignments to carriers and intermediate handlers. [Amended]

7. Section 3.35(b) of the standards (9 CFR 3.35(b)) is amended to read as follows:

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live guinea pig or hamster in a primary enclosure which conforms to the requirements set forth in § 3.36 of the standards: *Provided, however,* That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live guinea pig or hamster consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals, or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale, if such consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.36 of the standards, unless such primary enclosure is obviously defective or damaged and it is apparent that it cannot reasonably be expected to contain the live guinea pig or hamster without causing suffering or injury to such live guinea pig or hamster. A copy of such certificate shall accompany the shipment to destination. The certificate of compliance shall include at least the following information:

- (1) Name and address of the consignor;
- (2) The number of guinea pigs or hamsters in the primary enclosure(s);
- (3) A certifying statement (e.g., "I hereby certify that the --- (number) primary enclosure(s) which are used to transport the animal(s) in this shipment complies (comply) with USDA standards for primary enclosures (9 CFR Part 3)."); and
- (4) The signature of the consignor, and date.

8. Section 3.35(c) of the standards (9 CFR 3.35(c)) is amended to read as follows:

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the

standards may accept for transportation or transport, in commerce, any live hamster consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate executed by a licensed veterinarian on a specified date which shall not be more than 10 days prior to delivery of such hamster for transportation in commerce, stating that such live hamster is acclimated to lower air temperatures than prescribed in §§ 3.40 and 3.42. A copy of such certificate shall accompany the shipment to destination. The certificate shall include the following information:

- (1) Name and address of the consignor;
- (2) The number of hamsters in the shipment;
- (3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45° F.)."); and
- (4) The signature of the licensed veterinarian, and date.

9. A new § 3.35(d) (9 CFR 3.35(d)) is added to the standards as follows:

(d) 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.

10. Section 3.36(a)(5) of the standards (9 CFR 3.36(a)(5)) is amended to read as follows:

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

(a) " * * * (5) except as provided in paragraph (d) 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 minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; * * *"

11. Section 3.40 of the standards (9 CFR 3.40) is amended to read as follows:

§ 3.40 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained 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, to minimize vermin infestation, and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live guinea pigs or hamsters shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may 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 air temperature around any live guinea pig or hamster in any animal holding area 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.

12. Section 3.41 of the standards (9 CFR 3.41) is amended to read as follows:

§ 3.41 Handling.

(a) Carriers and intermediate handlers shall move live guinea pigs and hamsters from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live guinea pig or hamster in an animal holding area of a terminal facility or in transporting any live guinea pig or hamster from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of

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the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *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.

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

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

(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 pig or hamster 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.

§ 3.60 Consignments to carriers and intermediate handlers. [Amended]

13. Section 3.60(b) of the standards (9 CFR 3.60(b)) is amended to read as follows:

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live rabbit in a primary enclosure which conforms to the requirements set forth in § 3.61 of the standards: *Provided, however,* That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live rabbit consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale, if such consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.61 of the standards, unless such primary enclosure is obviously defective or damaged and it is apparent that it cannot reasonably be expected to contain the live rabbit without causing suffering or injury to such live rabbit. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) The number of rabbits in the primary enclosure(s);

(3) A certifying statement (e.g., "I hereby certify that the — (number)

primary enclosure(s) which are used to transport the animal(s) in this shipment complies (comply) with USDA standards for primary enclosures (9 CFR Part 3)."); and

(4) The signature of the consignor, and date.

14. Section 3.60(c) of the standards (9 CFR 3.60(c)) is amended to read as follows:

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards may accept for transportation or transport, in commerce, any live rabbit consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate executed by a licensed veterinarian on a specified date which shall not be more than 10 days prior to delivery of such rabbit for transportation in commerce, stating that such live rabbit is acclimated to lower air temperatures than prescribed in §§ 3.65 and 3.67. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) The number of rabbits in the shipment;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45° F.)."); and

(4) The signature of the licensed veterinarian, and date.

15. A new § 3.60(d) (9 CFR 3.60(d)) is added to the standards as follows:

(d) 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.

16. Section 3.61(a)(4) of the standards (9 CFR 3.61(a)(4)) is amended to read as follows:

§ 3.61 Primary enclosures used to transport live rabbits.

(a) " * * * (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 minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; * * * "

17. Section 3.65 of the standards (9 CFR 3.65) is amended to read as follows:

§ 3.65 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained 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, to minimize vermin infestation, and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live rabbits shall be provided with fresh air by means of windows, doors, vents, or air-conditioning and may 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 air temperature around any live rabbit in any animal holding area 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.

18. Section 3.66 of the standards (9 CFR 3.66) is amended to read as follows:

§ 3.66 Handling.

(a) Carriers and intermediate handlers shall move live rabbits from the

animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live rabbit in an animal holding area of a terminal facility or in transporting any live rabbit from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *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.

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

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

(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 rabbit 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.

§ 3.85 *Consignments to carriers and intermediate handlers.* [Amended]

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

• • • • •

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live nonhuman primate in a primary enclosure which conforms to the requirements set forth in § 3.86 of the standards: *Provided, however,* That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live nonhuman primate consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.86 of the standards, unless such primary enclosure is obviously defective or damaged and it is apparent that it cannot rea-

sonably be expected to contain the live nonhuman primate without causing suffering of injury to such live nonhuman primate. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) The number of nonhuman primates in the primary enclosure(s);

(3) A certifying statement (e.g., "I hereby certify that the _____ (number) primary enclosure(s) which are used to transport the animal(s) in this shipment complies (comply) with USDA standards for primary enclosures (9 CFR Part 3)."); and

(4) The signature of the consignor, and date.

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards may accept for transportation or transport, in commerce, any live nonhuman primate consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate executed by a licensed veterinarian on a specified date which shall not be more than 10 days prior to delivery of such nonhuman primate for transportation in commerce, stating that such live nonhuman primate is acclimated to lower air temperatures than prescribed in §§ 3.90 and 3.92. A copy of such certificate shall accompany the shipment to destination. The certificate shall include the following information:

(1) Name and address of the consignor;

(2) The number of nonhuman primates in the shipment;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45° F.)."); and

(4) The signature of the licensed veterinarian, and date.

• • • • •

21. A new § 3.85(d) (9 CFR 3.85(d)) is added to the statements as follows:

• • • • •

(d) 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.

22. Section 3.86(a)(6) of the standards (9 CFR 3.86(a)(6)) is amended to read as follows:

§ 3.86 *Primary enclosures used to transport live nonhuman primates.*

• • • • •

(a) "• • • (4) except as provided in paragraph (4) 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 minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; • • •"

23. Section 3.90 of the standards (9 CFR 3.90) is amended to read as follows:

§ 3.90 *Terminal facilities.*

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained 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, to minimize vermin infestation, and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing nonhuman primates shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or blowers or air conditioning shall be used for any animal holding area containing live nonhuman primates when the air temperature within such animal holding area is 29.5° C. (85° F.) or higher.

The air temperature around any live nonhuman primate in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 35° C. (95° F.) at any time: *Provided, however,* That no live nonhuman primate shall be subjected to air temperatures in excess of 29.5° C. (85° F.) for more than 4 hours at any time.

24. Section 3.91 of the standards (9 CFR 3.91) is amended to read as follows:

§ 3.91 Handling.

(a) Carriers and intermediate handlers shall move live nonhuman primates from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live nonhuman primate in an animal holding area of a terminal facility or in transporting any live nonhuman primate from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *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.

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

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

(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 primate 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.

§ 3.111 Consignments to carriers and intermediate handlers. [Amended]

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

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live animal in a primary enclosure which conforms to the requirements

set forth in § 3.112 of the standards: *Provided, however,* That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live animal consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.112 of the standards, unless such primary enclosure is obviously defective or damaged and it is apparent that it cannot reasonably be expected to contain the live animal without causing suffering or injury to such live animal. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) The number of animals in the primary enclosure(s);

(3) A certifying statement (e.g., "I hereby certify that the _____ (number) primary enclosure(s) which are used to transport the animal(s) in this shipment complies (comply) with USDA standards for primary enclosures (9 CFR Part 3)."); and

(4) The signature of the consignor, and date.

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards may accept for transportation or transport, in commerce, any live animal consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate executed by a licensed veterinarian on a specified date which shall not be more than 10 days prior to delivery of such animal for transportation in commerce, stating that such live animal is acclimated to lower air temperatures than prescribed in §§ 3.116 and 3.118. A copy of such certificate shall accompany the shipment to destination. The certificate to include at least the following information:

(1) Name and address of the consignor;

(2) The number of animals in the shipment;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45° F.); and

(4) The signature of the licensed veterinarian, and date.

27. A new § 3.111(d) (9 CFR 3.111(d)) is added to the standards as follows:

(d) 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.

28. § 3.112(a)(4) of the standards (9 CFR 3.112(a)(4)) is amended to read as follows:

§ 3.112 Primary enclosures used to transport live animals.

(a) " * * * (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 minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; * * *"

29. Section 3.116 of the standards (9 CFR 3.116) is amended to read as follows:

§ 3.116 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained 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, to minimize vermin

infestation, and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live animals shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxillary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live animals when the air temperature within such animal holding area is 29.5° C (85° F) or higher. The air temperature around any live animal in any animal holding area shall not be allowed to fall below 7.2° C (45° F) nor be allowed to exceed 35° C (95° F) at any time: *Provided, however,* That no live animal shall be subjected to air temperatures in excess of 29.5° C (85° F) for more than 4 hours at any time.

30. Section 3.117 of the standards (9 CFR 3.117) is amended to read as follows:

§ 3.117 Handling.

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

animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live animal in an animal holding area of a terminal facility or in transporting any live animal from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *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.

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

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

(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.

(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 is to the benefit of the public and the regulated industries that these amendments to the regulations be made effective at the earliest practicable date. The changes effected by these regulations will not require extensive preparation by those affected in that the amendments relax certain of the requirements contained in the current regulations. In view of the foregoing, it is hereby found and determined that good cause exists for making these regulations effective on the date of publication in the FEDERAL REGISTER, and that it would be contrary to the public interest to delay the effective date of these amendments for 30 days after their publication. (Section 553(d), Administrative Procedures Act, 5 U.S.C. 551-559.)

Done at Washington, D.C., this 9th day of May 1978.

NOTE.—The Animal and Plant Health Inspection 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.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

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