

# proposed rules

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[ 3410-34 ]

## DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[ 9 CFR Part 3 ]

### ANIMAL WELFARE

**Proposed Revision of Standards for Transportation, 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:** Proposed rule.

**SUMMARY:** This document proposes revisions of the transportation standards governing certain live warmblooded animals under the Animal Welfare Act published in the FEDERAL REGISTER on June 21, 1977 (42 FR 31558-31571). The revisions concern compliance with standards for primary enclosures used to transport certain animals in commerce by carriers and intermediate handlers, the use of certain primary enclosures to transport animals with ventilation openings on three walls, and the standards for the animal holding area of terminal facilities. These revisions of the transportation standards are proposed as a result of various petitions for reconsideration which were received by the Department after publication of the final transportation standards in the FEDERAL REGISTER on June 21, 1977, which made new facts and evidence available to the Department that appear to warrant such action.

**DATE:** Comments on or before October 31, 1977.

**ADDRESSES:** Comments to Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Rd., Hyattsville, Md. 20782. Comments available for inspection at the above address during regular hours of business (8:00 a.m. to 4:30 p.m. Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:**

Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Rd., Hyattsville, Md. 20782, (301-436-8271).

**SUPPLEMENTARY INFORMATION:** Present transportation standards (§§ 3.11, 3.112, 3.35, 3.36, 3.60, 3.61, 3.85, 3.86, 3.111 and 3.112) require that no carrier or intermediate handler accept for transportation or transport, in commerce, and that no dealer, research facility, exhibitor, or operator of an auction sale offer for transportation or transport, in commerce, any animal in a primary enclosure that does not conform to the requirements set forth in the standards. Section 14 of the Animal Welfare Act requires departments, agencies, and instrumentalities of the United States having laboratory animal facilities or exhibiting animals to comply with the standards promulgated under section 13 of the Act. In order for carriers and intermediate handlers to be sure that they are not violating the regulations and standards when they accept for transportation or transport any animal, they may have to open the primary enclosures containing all such animals in order to determine whether or not the primary enclosures meet the requirements of the standards for such animals. The Air Transport Association (TAT), which represents most of the major domestic airlines, and various airlines themselves, as well as the Pet Industry Joint Advisory Council (PIJAC), have filed petitions for reconsideration requesting that APHIS reconsider this requirement concerning carriers and intermediate handlers.

The air carriers believe that the obligation to affirm the adequacy of a shipping container or primary enclosure used for the transportation of live animals should be the responsibility of the consignor. The carriers' belief that the consignor should bear this responsibility is based on the carriers' alleged lack of personnel qualified to effect the inspection and verification procedures required for animal shipping containers. The carriers contend that serious disruption of the normal flow of passengers traveling with pet animals through airport facilities, as well as delayed processing of animal shipments which are not accompanied by an owner or consignor, will result from the required inspection of animal shipping containers. As the result of such delays in processing animals presented for transportation at airports, the animals will be required to spend additional time in their shipping containers. Such added time in transit subjects the transported animal to greater physical stress which lowers his resistance to various diseases.

The additional assurance of humane treatment to animals offered for transportation and transported by carriers

and intermediate handlers afforded by the actual inspection of primary enclosures, by such carriers and intermediate handlers as well as other persons and entities subject to the Act, prior to shipment does not appear to be warranted if it results in prolonging the time such animals are in transit or within their primary enclosures. Therefore, APHIS proposes to revise the transportation standards to allow carriers and intermediate handlers to accept for transportation and transport in commerce, any animal in a primary enclosure consigned by any licensed or registered dealer, research facility, exhibitor, operator of an auction sale or consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals, if such person or department, agency or instrumentality of the United States certifies that the primary enclosure meets the requirements of the standards for such animal. However, carriers and intermediate handlers would still be responsible for inspecting and assuring that primary enclosures for all other animals accepted for transportation or transported, in commerce, meet the requirements of the standards. It is proposed that such certification of primary enclosures be limited to departments, agencies or instrumentalities of the United States and to licensed or registered dealers, research facilities, exhibitors and operators of auction sales for ease of identification of such persons or entities by carriers and intermediate handlers and to prevent carriers and intermediate handlers from having to determine if, in fact, a consignor of an animal does not meet the definition of a dealer, research facility, exhibitor, or operator of an auction sale.

The present standards (§§ 3.12, 3.36, 3.61, 3.86 and 3.112) require that primary enclosures used to transport animals shall be constructed in such a manner that there are ventilation openings located on two opposite walls of the primary enclosure and such ventilation openings on each such wall are 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 such ventilation openings are at least 3 percent of the total surface area of each such wall. APHIS did not propose a standard of ventilation with respect to ventilation openings located on three sides of such a primary enclosure and when such proposal was published in the FEDERAL REGISTER for public

comment, no comments were received indicating that there was any need for such a standard. Therefore, APHIS did not promulgate and publish such a standard in the FEDERAL REGISTER. However, it has been pointed out by the petitioners that many of the primary enclosures presently used to transport dogs and cats, in commerce, which appear to provide adequate ventilation for the dog or cat contained therein have ventilation openings on three sides, and these enclosures do not meet the requirements of the standards.

Such primary enclosures have ventilation openings of approximately 10 percent of the surface area of each of two opposite walls and approximately 50 percent of a third wall. Information from petitioners indicates that approximately 700,000 of such primary enclosures with ventilation openings on three sides have been successfully used by consignors of animals to transport live dogs and cats in commerce. Information from such petitioners also indicates that after extensive use, no documented case or even a complaint of injury or death of a dog or cat occurred as the result of transporting such animals in such primary enclosures with ventilation openings on three walls. Therefore, APHIS is proposing to amend § 3.12 of the standards to allow the usage of primary enclosures for transporting live dogs and cats that have ventilation openings on two opposite walls that are at least 8 percent of the total surface area of each such wall and a ventilation opening on a third wall that is at least 50 percent of the total surface area of such third wall.

It has been noted by APHIS field personnel that some primary enclosures used to transport live animals in commerce are made of welded wire mesh and a solid bottom. In order to contain the bedding and excreta within the confines of such a primary enclosure, a partial wall extends part way up the sides of such primary enclosure. The present standards for providing ventilation in primary enclosures used to transport live animals requires 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. Some persons have pointed out that such primary enclosure cannot meet the standards and contain excreta and bedding through the use of a partial wall on the lower one-half of such shipping container. Therefore, APHIS proposes that the standards be amended to provide 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 are required for the ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure.

Present standards require that carriers 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. Petitioners point out that this requirement prohibits the utilization of such an indoor animal holding area for stowage of other cargo when animals are not present. They also contend that in temperate climates it is unnecessarily restrictive to require that such an animal holding area be indoors as long as there is compliance with the other standards. Because space is limited in many airport cargo areas, it appears that a restriction of the number of animal shipments would occur if minimal space would be designated as an indoor animal holding area to efficiently utilize the premium priced cargo storage space. Such result would not be an improved situation for the animals in transit, but rather would add restrictions which hinder the expeditious handling of the animals. Limiting the number of animals which may be transported by air carriers could force the consignors of animal shipments to use slower surface transportation methods resulting in additional stress and trauma to the animals because of long periods of confinement in their primary enclosures used for transportation. It could also delay shipments en route because there would not be sufficient space in the animal holding area at a down-line terminal facility for such animals even though there would be sufficient space for such animals on the next available flight. Such delays are not in the best interest of the animals so shipped.

Therefore, APHIS proposes in lieu of the present standards that carriers and intermediate handlers shall maintain all animal shipments in the same animal holding area of a terminal facility at any one time and animal shipments shall not be commingled with inanimate cargo at any terminal facility.

APHIS is also proposing that present paragraph (b) of §§ 3.16, 3.40, 3.65, 3.90 and 3.116 of the standards concerning shelter from sunlight, rain or snow and cold when animals are moved from primary conveyances to terminal facilities and from terminal facilities to primary conveyances be placed under "Handling" in §§ 3.17, 3.41, 3.66, 3.91 and 3.117 of the standards respectively for clarity and association of related topics; and that such standards concerning shelter from sunlight, when sunlight is likely to cause overheating or discomfort, and shelter from rain or snow be made applicable to all animal holding areas as a basic requirement whether such areas are indoors or outdoors;

The present standards require animal holding areas in terminal facilities to be cleaned and sanitized in a manner prescribed in the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard. While cleaning and sanitizing the animal holding area will reduce its attraction of various vermin and places for them to live and breed, it will not effectively control all insects, ectoparasites, and avian and

mammalian pests. Therefore, to clarify what is considered a vermin infestation and to effectively control insects, ectoparasites and avian and mammalian pests in animal holding areas, APHIS is proposing to require that an effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas.

Present transportation standards require that the ambient temperature in any animal holding area at any terminal facility of any carrier or intermediate handler not be allowed to fall below a minimum of 7.2°C. (45°F.) nor be allowed to 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. However, a question has been raised as to whether these standards are more restrictive than necessary to assure the humane treatment of animals during the course of their transportation. APHIS's primary concern is the welfare of the animal and the ambient temperatures to which it is subjected. Writing the standards in relation to the temperature in the animal holding area and requiring that such temperature not exceed 29.5°C. (85°F.) for more than 4 hours achieved that purpose, but, in cases where the temperature could not be controlled, it meant that no animals could be accepted after the animal holding area had exceeded 29.5°C. (85°F.) for 4 hours, even though it had not reached 35°C. (95°F.) and no animals were confined therein. This could needlessly delay the shipment of some animals with a consequent increase in the stress and trauma to which they were subjected.

Therefore, APHIS is proposing that the ambient temperature within an animal holding area for live dogs, cats, non-human primates, and other warmblooded animals covered by the Act, other than rabbits, hamsters, and guinea pigs, shall not be allowed to fall below 7.2°C. (45°F.) at any time, provided that no such live animals are subjected to an ambient temperature in such animal holding area in excess of 24.5°C. (85°F.) for more than 4 hours. APHIS is also proposing that auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be provided and used when the atmospheric temperature within the animal holding area is 29.5°C. (85°F.) or higher to increase the flow of air which will minimize the debilitating effect of high temperature as it approaches the critical temperature of 35°C. (95°F.).

Accordingly, the standards (9 CFR 3.11 et seq.) would be amended in the following respects:

#### PART 3—STANDARDS

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

§ 3.11 Consignments to carriers and intermediate handlers.

(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 the 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. A copy of the certificate shall accompany the shipment to destination.

2. Section 3.12(a) (4) of the standards (9 CFR 3.12(a) (4)) would be 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 opening 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;

3. Section 3.16 of the standards (9 CFR 3.16) would be amended to read as follows:

**§ 3.16 Terminal facilities.**

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All live animal shipments shall be maintained in the same animal holding area of a terminal facility of any carrier or intermediate handler at any one time. All animal holding areas 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. 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 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. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be provided for any animal holding area containing live dogs and cats and shall be used when the atmospheric temperature within such animal holding area is 29.5° C. (85° F.) or higher. The ambient 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 ambient temperatures in excess of 29.5° C. (85° F.) for more than 4 hours at any time.

4. Section 3.17 of the standards (9 CFR 3.17) would be 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 device shall be covered to provide protection for live dogs and cats when the atmospheric 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.

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

**§ 3.35 Consignments to carriers and intermediate handlers.**

(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 or 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 § 3.36 of the standards. A copy of the certificate shall accompany the shipment to destination.

6. Section 3.36(a) (5) of the standards (9 CFR 3.36(a) (5)) would be amended to read as follows:

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

(a) . . . (5) except as provided in paragraph (1) 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;

7. Section 3.40 of the standards (9 CFR 3.40) would be amended to read as follows:

**§ 3.40 Terminal facilities.**

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All live animal shipments shall be maintained in the same animal holding area of a terminal facility of any carrier or intermediate handler at any one time. All animal holding areas 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. 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 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 around any live guinea pig or hamster 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.

8. Section 3.41 of the standards (9 CFR 3.41) would be 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 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 from live guinea pigs and hamsters when the atmospheric 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.

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

**§ 3.60 Consignments to carriers and intermediate handlers.**

(b) Any carrier or intermediate handlers shall only accept for transportation or transport, in commerce, any live rabbit in the primary enclosure which conforms to the requirements set forth in § 3.61 of the standards: *Provided,*

*however,* That carriers or intermediate handlers 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, signed by the consignor, stating that the primary enclosure complies with section 3.61 of the standards. A copy of the certificate shall accompany the shipment to destination.

10. Section 3.61(a)(4) of the standards (9 CFR 3.61(a)(4)) would be 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; \* \* \*

11. Section 3.65 of the standards (9 CFR 3.65) would be amended to read as follows:

**§ 3.65 Terminal facilities.**

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All live animal shipments shall be maintained in the same holding area of the terminal facility of any carrier or intermediate handler at any one time. All animal holding areas 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. 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 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 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.

12. Section 3.66 of the standards (9 CFR 3.66) would be amended to read as follows:

**§ 3.66 Handling.**

(a) Carriers and 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 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 atmospheric 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.

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

**§ 3.85 Consignment to carriers and intermediate handlers.**

(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 carriers or intermediate handlers 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. A copy

of the certificate shall accompany the shipment to destination.

14. Section 3.86(a) (6) of the standards (9 CFR 3.86 (a) (6)) would be amended to read as follows:

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

(a) \* \* \* (6) 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; \* \* \*

15. Section 3.90 of the standards (9 CFR 3.90) would be amended to read as follows:

**§ 3.90 Terminal facilities.**

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All live animal shipments shall be maintained in the same animal holding area of a terminal facility of any carrier or intermediate handler at any one time. All animal holding areas 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. 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 nonhuman primates shall be provided with fresh air by means of windows, door, 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. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be provided for any animal holding area containing live nonhuman primates and shall be used when the atmospheric temperature within such animal holding area is 29.5° C. (85° F.) or higher. The ambient 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 live nonhuman primate shall be subjected to ambient temperatures in excess of 29.5° C. (85° F.) for more than 4 hours at any time.

16. Section 3.91 of the standards (9 CFR 3.91) would be 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 atmospheric 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.

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

**§ 3.111 Consignments to carriers and intermediate handlers.**

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live animals in a primary enclosure which conforms to the requirements set forth in § 3.112 of the standards: *Provided, however,* That carriers or intermediate handlers 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. A copy of the certificate shall accompany the shipment to destination.

18. Section 3.112(a) (4) of the standards (9 CFR 3.112(a) (4)) would be 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; \* \* \*

19. Section 3.116 of the standards (9 CFR 3.116) would be amended to read as follows:

**§ 3.116 Terminal facilities.**

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All live animal shipments shall be maintained in the same animal holding area of a terminal facility of any carrier or intermediate handler at any one time. All animal holding areas 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. 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 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. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be provided for any animal holding area containing live animals and shall be used when the atmospheric temperature within such animal holding area is 29.5° C. (85° F.) or higher. The ambient temperature 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 ambient temperatures in excess of 29.5° C. (85° F.) for more than 4 hours at any time.

20. Section 3.117 of the standards (9 CFR 3.117) would be 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 atmospheric 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.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 703, Hyattsville, Md., during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of October 1977.

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

However, an economic impact statement has been drafted and a copy of said draft statement may be obtained by writing to the Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782.

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

[FR Doc.77-30005 Filed 10-13-77;8:45 am]

## [ 1505-01 ]

Food Safety and Quality Service

[ 9 CFR Parts 317 and 319 ]

## STANDARDS AND LABELING REQUIREMENTS FOR TISSUE FROM GROUND BONE

In FR Doc. 77-29508 appearing at page 54437 in the issue for Thursday, October 6, 1977, in the summary of the Panel's recommendations on page 54439, in the third column, the last sentence of paragraph N should read: "The Panel further agreed that there was no need for health or safety reasons to make nutrition labeling mandatory for products containing MDM, although nutrition labeling of all food products should be encouraged."

## [ 6320-01 ]

CIVIL AERONAUTICS BOARD

[ 14 CFR Part 241 ]

[EDR-335A; Docket No. 30240; dated October 11, 1977]

## AIRLINE LOBBYING COSTS

Accounting and Reporting Requirements; Supplemental Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: This notice extends for 30 days the filing date for comments in a rulemaking proceeding concerning the accounting and reporting requirements for airline lobbying costs. The extension of the comment due date was requested by the Air Transport Association of America (ATA).

DATES: Comments by November 14, 1977.

ADDRESSES: Comments should be sent to: Docket 30240, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Rates and Agreements Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Ave. NW., Washington, D.C. 20428 (202-673-5436).

By Notice of Proposed Rulemaking EDR-335, 42 FR 46339, September 15, 1977, the Board proposed a rule which would require the carriers to report lobbying expenses in a separate non-operating account, thereby excluding these expenses from the costs allowable for ratemaking purposes.

On September 29, 1977 ATA filed a motion requesting a thirty-day extension for the filing of comments. In support, ATA advises that the additional time

will enable ATA and the carriers to conduct a thorough analysis of the proposal, and will permit the coordination and formulation of an industry response to certain issues.

Upon consideration of the foregoing, I find that good cause has been shown for the granting of the requested extension. Moreover, it does not appear that this extension will prejudice any party to the proceeding.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing comments is extended to November 14, 1977.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324).)

SIMON J. EILENBERG,  
Associate General  
Counsel Rules Division.

[FR Doc.77-30156 Filed 10-13-77;8:45 am]

## [ 6320-01 ]

[ 14 CFR Parts 241, 399 ]

[EDR-336A, PSDR-50A; Docket No. 31333; dated October 11, 1977]

## ACCOUNTING AND REPORTING REQUIREMENTS REGARDING AIRLINE ADVERTISING COSTS

Supplemental Advance Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Advance Notice of Proposed Rulemaking.

SUMMARY: This notice extends for 30 days the filing date for comments in a rulemaking proceeding concerning the accounting and reporting requirements for airline advertising costs. The extension of the comment due date was requested by the Air Transport Association of America (ATA).

DATES: Comments by November 14, 1977.

ADDRESSES: Comments should be sent to: Docket 31333, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Rates and Agreements Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202-673-5436).

SUPPLEMENTARY INFORMATION: By Advance Notice of Proposed Rulemaking EDR-336/PSDR-50, 42 FR 46345, September 15, 1977, the Board asked interested parties to discuss: (1) An appropriate definition of institutional advertising; (2) whether institutional advertising should be treated as a non-operating expense and thus excluded