

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****9 CFR Parts 1, 2, 3, 160, and 161****Revision of Definitions, Regulations, and Standards for the Humane Handling, Care, Treatment, and Transportation of Dogs, Cats, and Certain Other Warmblooded Animals; Conforming Changes in Requirements for Accredited Veterinarians.****AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Final rule.

**SUMMARY:** This document amends the definitions, regulations, and standards under the Animal Welfare Act concerned with the humane handling, care, treatment, and transportation of certain warmblooded animals used for purposes of research, teaching, exhibition, or as pets. The revisions contained in these amendments provide for (1) a clarification of the definitions, an amendment of the term, "Veterinary Services representative", and the addition of two terms; (2) automatic termination of licenses for failure to pay the annual renewal fee, payment of license fees by personal check, and deletion of the applicant-affidavit method to ascertain compliance with standards for premises, facilities, and equipment; (3) issuance of certificates of acclimation to lower temperatures by USDA accredited veterinarians; (4) the use of certificates of acclimation to lower temperatures by private individuals; and (5) removal of special requirements for the transportation of coursing hounds. This document also makes conforming changes in the requirements and standards for accredited veterinarians. The revisions contained herein are the result of various petitions for reconsideration received by the Department which made new facts and evidence available that appeared to warrant such action.

**EFFECTIVE DATE:** November 2, 1979.

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**SUPPLEMENTARY INFORMATION:** On August 1, 1979, the Department published a notice of proposed rulemaking containing changes and additions to Parts 1, 2, and 3 of

Subchapter A—Animal Welfare, Chapter I, Title 9 of the Code of Federal Regulations (44 FR 45912-45916) which provided for (1) a clarification of defined terms, an amendment of the definition of "Veterinary Services representative," and an addition of the terms "indoor housing facility" and "outdoor housing facility" to the definitions; (2) provision for automatic termination of licenses for failure to pay the annual renewal fee; (3) provision for payment of license fees by means of personal check; (4) the deletion of the applicant-affidavit method for ascertaining compliance with standards for premises, facilities and equipment; (5) provision for allowing the use of certificates of acclimation to temperatures lower than those provided for in the standards by persons other than licensees, registrants, or departments, agencies, or instrumentalities of the United States; (6) provision that all certificates of acclimation must be issued by USDA accredited veterinarians; and (7) removal of special requirements for the transportation of coursing hounds.

A total of 15 comments were received within the comment period in response to the proposed changes. Although this is a relatively small number, many interest groups were represented, i.e., registered research facilities; dealers, breeders and brokers; humane groups; and the American Veterinary Medical Association and specific veterinary clinicians. Many of the comments raised questions or made suggestions which, because of their validity, warranted some changes of the proposed standards. Certain other editorial changes were also made for clarification purposes.

**Discussion of Major Proposed Items and Comments***Definitions*

The present regulations do not preface the list of terms which are defined in § 1.1 of Part 1, Subchapter A—Animal Welfare, Chapter I of the CFR with any explanation of the applicability of singular forms versus plural forms or the masculine form versus the feminine form within the context of each term's definition. Without such explanation, clarity and completeness are lacking in the definition of certain terms. The Department proposed to clarify this matter and received no negative comments regarding such proposal. The Department thus provides that within the definition of each of the terms in § 1.1, unless the context of the definition of an individual term otherwise requires, the singular form shall also import the plural and the masculine form shall also

import the feminine. Further, it is provided that words which are undefined within the regulations and standards shall have the meaning attributed to general usage as reflected by definition in a standard dictionary, such as "Webster's."

The Department proposed to amend § 1.1(h) of the present regulations to change the definition of the term, "Veterinary Services representative," by deleting the term "full-time" from the definition. The proposal would allow the employment of both full-time and part-time personnel in order to effectively administer and enforce the Animal Welfare Act and its regulations and standards. However, a representative of a pharmaceutical firm, which is a registered research facility, indicated concern regarding such change because of the possibility that an employee of a competitor could be hired by the Department to inspect such firm's facilities and records. Such concern stems from the inspector's access to a company's testing areas and records. Such access could provide an opportunity to gain information useful to the competitor. The Animal and Plant Health Inspection Service (APHIS) has issued a written directive to Department Veterinarians in Charge of the various areas of this country, who are responsible for the hiring and assignment of animal welfare inspectors, to assure that work assignments are made in a manner which will preclude any possible opportunity for pirating of confidential business procedures or records of one research institution or business by the employee of a competitor. Accordingly, the definition of the term, "Veterinary Services representative," is amended herein by the deletion of the word "full-time."

*Automatic Termination of License*

The Animal Welfare Act (7 U.S.C. 2131-2156) requires that in order to obtain a license, a dealer or exhibitor must demonstrate that his facilities comply with standards promulgated by the Secretary of Agriculture. In addition, dealers and exhibitors must apply in writing and pay a prescribed fee in order to obtain the license.

The present regulations require that on or before each anniversary date of his license, the licensee must submit the required fee for annual renewal of such license. The regulations also require the filing of an annual report by licensees within 30 days prior to the anniversary date of their license. The Department proposed to amend the regulations to provide that if the required annual dealer's or exhibitor's fees are not paid,

or if the required report is not filed on or before the date required by the regulations, the license of such dealer or exhibitor shall automatically terminate. However, the licensee would be notified by the Department and given an opportunity (60 days) to comply with the payment and reporting provisions of the regulations prior to such automatic termination.

Comments received agreed with the Department's proposal recognizing the efficiency of a licensing procedure whereby licenses are issued for a period of 1 year and renewal of such licenses is dependent upon the payment of an annual license fee and submission of a completed license renewal form. One comment complained that the proposed "grace" period of 60 days following the anniversary date for license renewal is too short; that 90 days would be more appropriate. The Department however, finds that many government licensing agencies provide no additional time or a shorter "grace" period (30 days or less) for delinquent payment of fees for renewal of licenses. Such action is based on their experience that an overly lenient policy regarding delinquent license renewals encourages procrastinating licensees to delay, even further, action to renew a required license. Therefore, the Department provides herein that failure by a licensee to pay the annual license fee as required by §§ 2.1 and 2.6 of the regulations or to file the annual report as required by § 2.7 on or before the anniversary date of his license will result in automatic termination of the license. However, prior to such termination, the licensee shall be notified and given an opportunity to comply with the appropriate requirements. Failure to comply with the annual license fee and reporting requirements within 60 days from receipt of such notice shall result in an automatic termination of the license.

#### *Payment by Personal Check*

In response to complaints from persons who are required to be licensed under the Animal Welfare Act about the inconvenience and additional cost of paying their license fees by one of the three methods provided in the regulations, i.e., certified check, cashier's check, or money order, the Department proposed to allow payment of license fees by personal check. Response to this proposal was positive. Therefore, the Department finds that the convenience of using personal checks to pay license fees and the ability of the Department to withhold issuance of a license pending clearance of a personal check for sufficient funding provides

valid basis to allow payment of license fees by personal check.

#### *Inspection of License Applicant's Premises*

The Animal Welfare Act requires, in addition to a written application and payment of reasonable fees, that dealers and exhibitors demonstrate that their facilities comply with the standards promulgated by the Secretary. Presently, the Department allows license applicants to demonstrate compliance with the Department's standards by either of two methods, i.e., inspection of applicants' premises, facilities, and equipment by a Veterinary Services representative or submission of an affidavit by applicants to the effect that their premises, facilities, and equipment comply with the Department's standards.

Because the Department has experienced some abuse of the applicant-affidavit method of ascertaining compliance with the Department's standards for premises, facilities, and equipment by license applicants, it proposed to delete the applicant-affidavit method. All comments received agreed that such a proposal was overdue. Therefore, the Department provides herein that licenses for dealers and exhibitors will be issued only to those applicants whose premises, facilities, and equipment are inspected by a Veterinary Services representative and found to comply with the standards.

#### *Deletion of Requirements for Coursing Hounds*

The Department's present standards for primary enclosures used to transport live dogs and cats (reference, 9 CFR 3.12) require that the shipping containers used to transport coursing hounds with a spinal arch, i.e., greyhounds, whippets, borzois, and Italian greyhounds, must be narrow enough to prevent the animals from turning around in their enclosures. However, a subsequent review of available scientific data indicates that although possible spinal weakness expressed in the form of an injury can occur during conditions wherein great force is exerted on the musculoskeletal system of the hounds, such as is encountered during actual coursing, such force exceeds that which may occur at rest or in confinement. Consequently, the Department proposed to revise § 3.12(c) of the standards by deleting the requirement that the primary enclosures for coursing hounds with a spinal arch must be narrow enough to prevent the animal from turning around. The Department received no comments or data

contradicting this proposal, and therefore, it is provided herein that primary enclosures used to transport all live dogs and cats shall be large enough to ensure that each animal contained therein has sufficient space to turn about freely in a standing position using normal body movements, to stand and sit erect, and to lie in a natural position.

#### *Certificates of Acclimation to Lower Temperatures; All Certificates to be Issued by Accredited Veterinarians*

In the final rulemaking published December 1, 1978, in the Federal Register (43 FR 56213-56217), the Department provided for the use of certificates of acclimation to colder temperatures by licensees, registrants, or agencies, departments, or instrumentalities of the United States when shipping animals in commerce. The Department also acknowledged the problem of hobby breeders and individual pet owners who were not afforded the opportunity to present to carriers and intermediate handlers certificates of acclimation to lower temperatures when shipping animals which are known to be so acclimated. After reconsideration of the matter, it was decided that such persons should also be allowed to use certificates of acclimation to colder temperatures. However, in order to provide an element of control, it was determined that such certificates would be required to be issued by Department accredited veterinarians. The Department therefore proposed to provide certificates of acclimation to lower temperatures executed by USDA accredited veterinarians for use by persons, i.e., hobby breeders, and individual pet owners, not provided such option by the final rulemaking of December 1, 1978.

An "accredited" veterinarian is a licensed veterinarian who has been officially authorized by the Deputy Administrator of the Department's Veterinary Services to perform certain functions in connection with programs and laws which the Department administers (reference, 9 CFR 161.1). In the proposed rulemaking of August 3, 1979, the Department provided that certificates of acclimation to lower temperatures presented to carriers or intermediate handlers by any department, agency, or instrumentality of the United States or by "any person" must be executed by an accredited veterinarian. It was the Department's intent that all certificates of acclimation to lower temperatures (those presented by public persons as well as by private persons) be required to be issued by accredited veterinarians in order to provide for a method of accountability.

Proposed § 3.11 has been reworded to clarify this intent. With respect to public persons, it was intended that subdivisions of State or local governments should have the same right to utilize acclimation certificates as agencies of the United States. They are therefore included herein. By proposing to require that such certificates be executed by accredited veterinarians, the Department felt that it could exercise an element of control over such certificates by holding the accredited veterinarian accountable for the validity and accuracy of the certificates.

Several comments indicated concern for the ability of veterinarians to determine if an animal is acclimated to temperatures lower than 45° F. A representative of the American Veterinary Medical Association indicated that few veterinarians have sufficient firsthand knowledge of the day-to-day living pattern of the pet animals they treat to be able to appraise, with confidence, the animal's acclimation to hot or cold temperatures. Further, it was indicated that there is no simple method available for testing for such acclimation. This would require an accredited veterinarian to rely on the word of the owner or handler when determining whether or not an animal is acclimated to temperatures lower than 45° F. The Department believes that a licensed veterinarian, by virtue of his professional training and experience, should possess the qualifications and judgment necessary to determine whether or not an animal is able to safely withstand a particular range of temperatures. Accredited veterinarians must meet requirements and take examinations in addition to those required for licensure. Furthermore, since accredited veterinarians are responsible to the Department, it is expected that determinations regarding acclimation will be made in a professionally responsible manner.

There were comments indicating that other persons should be authorized to execute the acclimation certificates, i.e., licensed but non-accredited veterinarians, biologists, researchers, etc. The Department rejects this suggestion since it does not have the type of control over such people's actions as it does over the actions of accredited veterinarians.

Two comments criticized the proposal for the burden of the open-ended accountability placed on the accredited veterinarian who executes a certificate of acclimation to temperatures lower than 45° F. for animals transported in commerce and who could subsequently be held responsible for any deleterious

effects of colder temperatures on such animals during the course of transportation. The Association of Primate Veterinary Clinicians agreed with the requirement of holding the accredited veterinarian accountable for the validity of the certificates of acclimation but suggested that the accredited veterinarian be held responsible for deleterious effects which occur only within a specified temperature range. If the animal suffer deleterious effects due to exposure to temperatures which were colder than the stated minimum acclimation temperature, the carrier or intermediate handler would be held accountable. The intent of this amendment with respect to acclimation is to provide private individuals the same flexibility as is now provided licensees, registrants, etc. This is accomplished by allowing carriers and intermediate handlers whose facilities fail to meet the minimum temperature requirement (45° F.) to accept animals for shipment, provided that they are accompanied by an accredited veterinarian. It is expected that the veterinarian will make a determination regarding each animal as to whether such animal is or is not acclimated to temperatures it will encounter during its transportation. If he determines that the temperatures the animal will encounter could be detrimental, the veterinarian should take this into account when deciding whether or not to issue an acclimation certificate.

Two comments suggested that the Department also require the accreditation number assigned to the certifying veterinarian be included on acclimation certificates to provide additional identification and to discourage fraud. The Department believes the suggestion to be helpful and provides this requirement in §§ 3.11(c); 3.35(c); 3.60(c); 3.85(c); 3.112(c); and 3.136(c) of the transportation standards.

One comment complained that there are at present very few "accredited" veterinarians in the country and that most accredited veterinarians are large animal practitioners. The Department's Veterinary Services' records indicate that approximately 29,000 veterinarians, engaged in both large and small animal practices, are accredited.

#### *Other Comments*

A number of comments were received which were beyond the scope of the proposed rulemaking. Several comments provided no supporting evidence for the criticism indicated or for the suggested changes to the regulations or standards. Without the basis for such comments

being enunciated, they could not be properly evaluated. Therefore, it was difficult to consider them in this rulemaking proceeding.

#### *Other Considerations*

This rulemaking provides for acclimation certificates to be executed by accredited veterinarians in accordance with provisions in Parts 1, 2, and 3 of Subchapter A, Chapter I, Title 9, CFR. Accredited veterinarians are governed by Parts 160 and 161 of Subchapter I, Chapter I, Title 9, CFR. It therefore becomes necessary to make conforming changes in Parts 160 and 161 to include the additional responsibilities under these regulations and standards and those veterinarians who issue such acclimation certificates.

Accordingly, Parts 1, 2, 3, 160, and 161 of Title 9, CFR, are amended in the following respects:

#### **PART 1—DEFINITION OF TERMS**

1. Section 1.1 (9 CFR 1.1) is amended by revising the introductory paragraph to read as set forth below and by making the following redesignations: paragraph (ss) is designated (tt); paragraph (rr) is redesignated (ss); paragraph (qq) is redesignated (rr); paragraph (pp) is redesignated (qq); paragraph (oo) is redesignated (pp); paragraph (nn) is redesignated (oo); paragraph (mm) is redesignated (nn); paragraph (ll) is redesignated (mm); paragraph (kk) is redesignated paragraph (ll); paragraph (jj) is redesignated (kk); paragraph (ii) is redesignated (jj); and by adding a new paragraph (ii) and revising paragraphs (h) and (hh) to read as follows:

##### **§ 1.1 Definitions.**

For the purposes of this part, unless the context otherwise requires, the following terms shall have the meanings assigned to them in this section. The singular form shall also import the plural and the masculine form shall also import the feminine. Words undefined in the following paragraphs shall have the meaning attributed to general usage as reflected by definition in a standard dictionary, such as "Webster's."

(h) "Veterinary Services representative" means any inspector or other person employed by the Department who is responsible for the performance of the function involved.

(hh) "Indoor housing facility" means any structure or building, housing or intended to house animals, which has the capability of controlling the environment within the enclosure

created by the continuous connection of a roof, floor, and walls with at least one opening for entry and exit that is provided with a door or any movable structure used to close off the opening and typically consisting of a panel of wood, glass, metal, etc., which slides on rollers or swings on hinges: *Provided, however,* That any openings which provide natural light shall be covered with a transparent material, e.g., glass, plastic, etc.

(ii) "Outdoor housing facility" means any structure or building, housing or intended to house animals, which does not meet the definition of "indoor housing facility."

**PART 2—REGULATIONS**

2. The Table of Contents cited in Part 2—REGULATIONS is amended to read as follows:

**Licensing**

- Sec.
- 2.1 Application.
- 2.2 Acknowledgement of standards.
- 2.3 Demonstration of compliance with standards.
- 2.4 Issuance of licenses.
- 2.5 Duration of license.
- 2.6 Annual license fees.
- 2.7 Annual report by licensees.
- 2.8 Notification of change of name, address, control, or ownership of business.
- 2.9 Officers, agents, and employees of licensees whose licenses have been suspended or revoked.
- 2.10 Licensees whose licenses have been suspended or revoked or terminated automatically.
- 2.11 Denial of license.

**Registration**

- 2.25 Requirements and procedures.
- 2.26 Acknowledgement of standards.
- 2.27 Notification of change of operation.
- 2.28 Annual report of research facilities.

**Identification of Animals**

- 2.50 Time and method of identification.
- 2.51 Form of official tag.
- 2.52 How to obtain tags.
- 2.53 Use of tags.
- 2.54 Lost tags.
- 2.55 Removal of tag.

**Records**

- 2.75 Records, dealers and exhibitors.
- 2.76 Records, research facilities.
- 2.77 Records, operators of auction sales.
- 2.78 Records, carriers and intermediate handlers.
- 2.79 Health certification and identification.
- 2.80 C.O.D. shipments.
- 2.81 Records, disposition.

**Compliance With Standards and Holding Period**

- 2.100 Compliance with standards.
- 2.101 Holding period.

**Miscellaneous**

**Sec.**

- 2.125 Information as to business; furnishing of by dealers, exhibitors, operators of auction sales, and research facilities.
  - 2.126 Access and inspection of records and property.
  - 2.127 Publication of names of persons subject to the provisions of this part.
  - 2.128 Inspection for missing animals.
  - 2.129 Confiscation and destruction of animals.
  - 2.130 Minimum age requirements.
- Authority: 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.

3. Section 2.1 (9 CFR 2.1) is amended by revising paragraph (b) to read as follows:

**§ 2.1 Application.**

\* \* \* \* \*

(b) Any person who is not a dealer or exhibitor, but who desires to obtain a license, shall follow the requirements for dealers and exhibitors set forth in paragraph (a) of this section and in §§ 2.2 and 2.3, and shall agree in writing, on a form furnished by Veterinary Services, to comply with all the requirements of the Act and the provisions of this subchapter. A license will be issued to any such applicant when the requirements of §§ 2.2 and 2.3 have been met, and when the applicant has submitted to the Veterinarian in Charge a fee of \$5 by certified check, cashier's check, personal check, or money order. In addition to the fee required to be paid upon application for a license, such licensee shall submit to the Veterinarian in Charge a fee of \$5, by certified check, cashier's check, personal check, or money order, on or before each anniversary date of his license. The failure of any such person to comply with any provisions of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for automatic termination of such license or for its suspension or revocation by the Secretary.

4. Section 2.3 (9 CFR 2.3) is revised as follows:

**§ 2.3 Demonstration of compliance with standards.**

Each applicant must demonstrate that his premises and any facilities or equipment used in his business comply with the standards set forth in Part 3 of this subchapter. Upon request by the Veterinarian in Charge, the applicant must make his premises, facilities, and equipment available at a time or times mutually agreeable to said applicant and Veterinary Services representative for the purpose of ascertaining

compliance with said standards. If the applicant's premises, facilities, or equipment do not meet the requirements of the standards, the applicant will be advised of existing deficiencies and the corrective measures that must be taken and completed to bring such premises, facilities, and equipment into compliance with the standards.

5. Section 2.4 (9 CFR 2.4) is revised as follows:

**§ 2.4 Issuance of licenses.**

Except as otherwise provided in §§ 2.10, and 2.11, a license will be issued to any applicant when the requirements of §§ 2.1, 2.2, and 2.3 have been met, when the Secretary has determined that the applicant's premises, facilities, and equipment comply with the standards and when the applicant has submitted to the Veterinarian in Charge the annual fee as prescribed in § 2.6 by certified check, cashier's check, personal check, or money order.

6. Section 2.5 (9 CFR 2.5) is revised to read as follows:

**§ 2.5 Duration of license.**

(a) A license issued under this part shall be valid and effective unless:

- (1) Said license has been revoked or suspended pursuant to section 19 of the Act.
- (2) Said license is voluntarily terminated upon the request of the licensee in writing to the Veterinarian in Charge.

(b) Failure by a licensee to pay the annual license fee as required by §§ 2.1 and 2.6 or to file the annual report as required by § 2.7 on or before the anniversary date of his license shall result in automatic termination of the license: *Provided, however,* That prior to such termination the licensee shall be given notice and opportunity to comply with the annual license fee and reporting requirements. Failure to comply with the annual license fee and reporting requirements within 60 days from receipt of such notice shall result in automatic termination of license.

(c) A license which is invalid under paragraph (a) of this section shall be surrendered to the Veterinarian in Charge in the State where the license was issued.

7. Section 2.6 (9 CFR 2.6) is amended by revising paragraph (a) to read as set forth below and by deleting paragraph (f).

**§ 2.6 Annual license fees.**

(a) In addition to the fee required to be paid upon application for a license under § 2.4, each licensee shall submit to the Veterinarian in Charge the annual fee prescribed in this section, by

certified check, cashier's check, personal check, or money order, on or before each anniversary date of his license.

\* \* \* \* \*

8. Section 2.7(b) (9 CFR 2.7(b)) is revised as follows:

\* \* \* \* \*

(b) A person licensed as a dealer shall set forth in his annual report the dollar amount of business, upon which the license fee is based, from the sale of animals, directly or through an auction sale, to research facilities for research, testing, experimentation, or teaching purposes; dealers; exhibitors; retail pet stores; and persons for use as pets, by the licensee during the preceding business year (calendar or fiscal) and such other information as may be required thereon.

9. Section 2.10 (9 CFR 2.10) is revised to read as follows:

**§ 2.10 Licensees whose license have been suspended or revoked or terminated automatically.**

Any person whose license has been suspended for any reason shall not again be licensed in his own name or in any other manner within the period during which the order of suspension is in effect, and any person whose license has been revoked shall not be eligible to apply for a new license in his own name or in any other manner for a period of 1 year from the effective date of such revocation. No partnership, firm, corporation, or other legal entity in which any such person has a substantial financial interest, will be licensed during such period. Any person who desires the reinstatement of a license which has automatically terminated must follow the procedure applicable to new licensees as explained in § 2.1.

**PART 3—STANDARDS**

10. Subpart F in the Table of Contents of Part 3—STANDARDS of Title 9, CFR, is amended to read as follows:

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

**Facilities and Operating Standards**

- Sec.
- 3.125 Facilities, general.
- 3.126 Facilities, indoor.
- 3.127 Facilities, outdoor.
- 3.128 Space requirements.

**Animal Health and Husbandry Standards**

- 3.129 Feeding.
- 3.130 Watering.
- 3.131 Sanitation.

- Sec.
- 3.132 Employees.
- 3.133 Separation.
- 3.134 Veterinary care.
- 3.135 Handling.

**Transportation Standards**

- 3.136 Consignments to carriers and intermediate handlers.
- 3.137 Primary enclosures used to transport live animals.
- 3.138 Primary conveyances (motor vehicle, rail, air, and marine).
- 3.139 Food and water requirements.
- 3.140 Care in transit.
- 3.141 Terminal facilities.
- 3.142 Handling.

**§ 3.1, 3.25, 3.50, 3.75, 3.100 and 3.125 [Amended]**

11. In §§ 3.1(a), 3.25(a), 3.50(a), 3.75(a), 3.100(a), and 3.125(a) wherever the reference to "housing facilities" appears, the reference "indoor and outdoor housing facilities" is substituted therefor.

**§ 3.11 [Amended]**

12. Section 3.11(c) of the standards (9 CFR 3.11(c)) is revised 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 or of any State or local government, or by any person (including any licensee or registrant under the Act, as well as any private individual) if the consignor furnishes to the carrier or intermediate handler a certificate executed by a veterinarian accredited by this Department pursuant to Part 160 of this title 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 air temperatures lower than those prescribed in §§ 3.16 and 3.17. 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 USDA accredited veterinarian, assigned accreditation number and date.

**§ 3.12 [Amended]**

13. Section 3.12(c) (9 CFR 3.12(c)) is revised to read as follows:

\* \* \* \* \*

(c) Primary enclosures used to transport live dogs and cats shall be large enough to ensure that each animal contained therein has sufficient space to turn about freely in a standing position using normal body movements, to stand and sit erect, and to lie in a natural position.

**§ 3.35 [Amended]**

14. Section 3.35(c) of the standards (9 CFR 3.35(c)) is revised 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 or of any State or local government, or by any person (including any licensee or registrant under the Act, as well as any private individual) if the consignor furnishes to the carrier or intermediate handler a certificate executed by a veterinarian accredited by this Department pursuant to Part 160 of this title 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 air temperatures lower than those prescribed in §§ 3.40 and 3.41. 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 USDA accredited veterinarian, assigned accreditation number, and date.

**§ 3.60 [Amended]**

15. Section 3.60(c) of the standards (9 CFR 3.60(c)) is revised 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 or of any State or local government, or by any person (including any licensee or registrant under the Act, as well as any private individual) if the consignor furnishes to the carrier or intermediate handler a certificate executed by a veterinarian accredited by this Department pursuant to Part 160 of this title 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 air temperatures lower than those prescribed in §§ 3.65 and 3.66. 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 USDA accredited veterinarian, assigned accreditation number, and date.

**§ 3.85 [Amended]**

16. Section 3.85(c) of the standards (9 CFR 3.85(c)) is revised 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 nonhuman primate consigned by any department, agency, or instrumentality of the United States or of any State or local government, or by any person (including any licensee or registrant under the Act, as well as any private individual) if the consignor furnishes to the carrier or intermediate handler a certificate executed by a veterinarian accredited by this Department pursuant to Part 160 of this title 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 primates is acclimated to air temperatures lower than those prescribed in §§ 3.90 and 3.91. 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 USDA accredited veterinarian, assigned accreditation number, and date.

**§ 3.112 [Amended]**

17. Section 3.112(c) of the standards (9 CFR 3.112(c)) is revised 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 marine mammal consigned by any department, agency, or instrumentality of the United States or of any State or local government, or by any person (including any licensee or registrant under the Act, as well as any private individual) if the consignor furnishes to the carrier or intermediate handler a certificate executed by a veterinarian accredited by this Department pursuant to Part 160 of this title 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 marine mammal is acclimated to air temperatures lower than those prescribed in §§ 3.117 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 USDA accredited veterinarian, assigned accreditation number, and date.

**§ 3.136 [Amended]**

18. Section 3.136(c) of the standards (9 CFR 3.136(c)) is revised 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 animal consigned by any department, agency, or instrumentality of the United States or of any State or local government, or by any person (including any licensee or registrant under the Act, as well as any private individual) if the consignor furnishes to the carrier or intermediate handler a certificate executed by a veterinarian accredited by this Department pursuant to Part 160 of this title 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 air temperatures lower than those prescribed in §§ 3.141 and 3.142. 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 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 USDA accredited veterinarian, assigned accreditation number, and date.

**PART 160—DEFINITION OF TERMS****§ 160.1 [Amended]**

19. Section 160.1(d) (9 CFR 160.1(d)) is amended to read as follows:

(d) "Accredited Veterinarian." A veterinarian approved by the Deputy Administrator in accordance with the provisions of Part 161 of this subchapter to perform functions specified in Parts 1, 2, 3, and 11 of Subchapter A, and Subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

**PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION**

**§ 161.2 [Amended]**

20. Section 161.2(b) (9 CFR 161.2(b)) is amended to read as follows:

\* \* \* \* \*

(b) An accredited veterinarian shall not sign any certificate, form, record or report, or permit such a certificate, form, record, or report to be used until, and unless, he has ascertained that it has been accurately and fully completed clearly identifying the animal(s) or bird(s) to which it applies and showing the results of the inspection test, or vaccination, etc., he has conducted, except as provided in paragraph(c) of this section. An accredited veterinarian shall not sign any certificate provided for by the Animal Welfare Act or its regulations and standards unless he has ascertained that the statements contained therein are complete, clear and accurate. The accredited veterinarian shall distribute copies of certificates, forms, records and reports, according to instructions issued to him by the Veterinarian in Charge or the State Animal Health Official.

\* \* \* \* \*

**§ 161.2 [Amended]**

21. Section 161.2(h) (9 CFR 161(h)) is amended to read as follows:

\* \* \* \* \*

(h) An accredited veterinarian shall keep himself currently informed on Federal and State regulations governing the movement of animals and poultry, and on procedures applicable to disease control and eradication programs, including emergency programs, and on definitions, regulations, and standards under the Animal Welfare Act, and any legislation amendatory thereof, and on regulations under the Horse Protection Act of 1970, and any legislation amendatory thereof. He shall carry out all of his responsibilities under the applicable Federal programs and cooperative programs in accordance with such regulations and instructions issued to him by the Veterinarian in Charge or the State Animal Health Official, or both.

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

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public procedure with

respect to these amendments are impracticable and unnecessary.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. An Approved Final Impact Statement is available from the Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Done at Washington, D.C., this 31st day of October 1979.

Pierre A. Chaloux,  
Deputy Administrator, Veterinary Services.

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