

§3.78

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facilities and any other necessary shelter from the elements must be sufficiently large to provide protection comfortably to each nonhuman primate housed in the facility. If aggressive or dominant animals are housed in the facility with other animals, there must be multiple shelters or other means to ensure that each nonhuman primate has access to shelter.

(f) *Perimeter fence.* On and after February 15, 1994, the outdoor area of a sheltered housing facility must be enclosed by a fence that is of sufficient height to keep unwanted species out. Fences less than 6 feet high must be approved by the Administrator. The fence must be constructed so that it protects nonhuman primates by restricting unauthorized humans, and animals the size of dogs, skunks, and raccoons from going through it or under it and having contact with the nonhuman primates. It must be of sufficient distance from the outside wall or fence of the primary enclosure to prevent physical contact between animals inside the enclosure and outside the perimeter fence. Such fences less than 3 feet in distance from the primary enclosure must be approved by the Administrator. A perimeter fence is not required if:

(1) The outside walls of the primary enclosure are made of a sturdy, durable material such as concrete, wood, plastic, metal, or glass, and are high enough and constructed in a manner that restricts contact with or entry by humans and animals that are outside the sheltered housing facility; or

(2) The housing facility is surrounded by a natural barrier that restricts the nonhuman primates to the housing facility and protects them from contact with unauthorized humans and animals that are outside the sheltered housing facility, and the Administrator gives written permission

(g) *Public barriers.* Fixed public exhibits housing nonhuman primates, such as zoos, must have a barrier between the primary enclosure and the public at any time the public is present, that restricts physical contact between the public and the nonhuman primates. Nonhuman primates used in trained animal acts or in uncaged public exhibits must be under the direct control

and supervision of an experienced handler or trainer at all times when the public is present. Trained nonhuman primates may be permitted physical contact with the public, as allowed under §2.131, but only if they are under the direct control and supervision of an experienced handler or trainer at all times during the contact.

(Approved by the Office of Management and Budget under control number 0579–0093)

§3.78 Outdoor housing facilities.

(a) *Acclimation.* Only nonhuman primates that are acclimated, as determined by the attending veterinarian, to the prevailing temperature and humidity at the outdoor housing facility during the time of year they are at the facility, and that can tolerate the range of temperatures and climatic conditions known to occur at the facility at that time of year without stress or discomfort, may be kept in outdoor facilities.

(b) *Shelter from the elements.* Outdoor housing facilities for nonhuman primates must provide adequate shelter from the elements at all times. It must provide protection from the sun, rain, snow, wind, and cold, and from any weather conditions that may occur. The shelter must safely provide heat to the nonhuman primates to prevent the ambient temperature from falling below 45 °F (7.2 °C), except as directed by the attending veterinarian and in accordance with generally accepted professional and husbandry practices.

(c) *Capacity: multiple shelters.* The shelter must be sufficiently large to comfortably provide protection for each nonhuman primate housed in the facility. If aggressive or dominant animals are housed in the facility with other animals there must be multiple shelters, or other means to ensure protection for each nonhuman primate housed in the facility.

(d) *Perimeter fence.* On and after February 15, 1994, an outdoor housing facility must be enclosed by a fence that is of sufficient height to keep unwanted species out. Fences less than 6 feet high must be approved by the Administrator. The fence must be constructed so that it protects nonhuman primates by restricting unauthorized humans, and animals the size of dogs, skunks,

and raccoons from going through it or under it and having contact with the nonhuman primates. It must be of sufficient distance from the outside wall or fence of the primary enclosure to prevent physical contact between animals inside the enclosure and outside the perimeter fence. Such fences less than 3 feet in distance from the primary enclosure must be approved by the Administrator. A perimeter fence is not required if:

(1) The outside walls of the primary enclosure are made of a sturdy, durable material such as concrete, wood, plastic, metal, or glass, and are high enough and constructed in a manner that restricts contact with or entry by humans and animals that are outside the housing facility; or

(2) The housing facility is surrounded by a natural barrier that restricts the nonhuman primates to the housing facility and protects them from contact with unauthorized humans and animals that are outside the housing facility, and the Administrator gives written permission.

(e) *Public barriers.* Fixed public exhibits housing nonhuman primates, such as zoos, must have a barrier between the primary enclosure and the public at any time the public is present, in order to restrict physical contact between the public and the nonhuman primates. Nonhuman primates used in trained animal acts or in uncaged public exhibits must be under the direct control and supervision of an experienced handler or trainer at all times when the public is present. Trained nonhuman primates may be allowed physical contact with the public, but only if they are under the direct control and supervision of an experienced handler or trainer at all times during the contact.

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§ 3.79 Mobile or traveling housing facilities.

(a) *Heating, cooling, and temperature.* Mobile or traveling housing facilities must be sufficiently heated and cooled when necessary to protect nonhuman primates from temperature extremes and to provide for their health and well-being. The ambient temperature

in the traveling housing facility must not fall below 45 °F (7.2 °C) for more than 4 consecutive hours when nonhuman primates are present, and must not rise above 85 °F (29.5 °C) for more than 4 consecutive hours when nonhuman primates are present. The ambient temperature must be maintained at a level that ensures the health and well-being of the species housed, as directed by the attending veterinarian, and in accordance with generally accepted professional and husbandry practices.

(b) *Ventilation.* Traveling housing facilities must be sufficiently ventilated at all times when nonhuman primates are present to provide for the health and well-being of nonhuman primates and to minimize odors, drafts, ammonia levels, moisture condensation, and exhaust fumes. Ventilation must be provided by means of windows, doors, vents, fans, or air conditioning. Auxiliary ventilation, such as fans, blowers, or air conditioning, must be provided when the ambient temperature in the traveling housing facility is 85 °F (29.5 °C) or higher.

(c) *Lighting.* Mobile or traveling housing facilities must be lighted well enough to permit routine inspection and cleaning of the facility, and observation of the nonhuman primates. Animal areas must be provided a regular diurnal lighting cycle of either natural or artificial light. Lighting must be uniformly diffused throughout animal facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning, adequate inspection of animals, and for the well-being of the animals. Primary enclosures must be placed in the housing facility so as to protect the nonhuman primates from excessive light.

(d) *Public barriers.* There must be a barrier between a mobile or traveling housing facility and the public at any time the public is present, in order to restrict physical contact between the nonhuman primates and the public. Nonhuman primates used in traveling exhibits, trained animal acts, or in uncaged public exhibits must be under the direct control and supervision of an experienced handler or trainer at all times when the public is present.