

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

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

#### §3.141 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in §3.141 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live animals shall be provided with fresh air by means of windows, doors vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers

or air conditioning shall be used for any animal holding area containing live animals when the air temperature within such animal holding area is 23.9 °C. (75°F.) or higher. The air temperature around any live animal in any animal holding area shall not be allowed to fall below 7.2 °C. (45 °F.) nor be allowed to exceed 29.5 °C. (85 °F.) at any time: *Provided, however,* That no live animal shall be subjected to surrounding air temperatures which exceed 23.9 °C. (75 °F.) for more than 4 hours at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live animal shall be measured and read outside the primary enclosure which contains such animal at a distance not to exceed .91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

[43 FR 56217, Dec. 1, 1978. Redesignated at 44 FR 36874, July 22, 1979]

#### §3.142 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 and such live animals shall not be subjected to surrounding air temperatures which exceed 29.5 °C. (85 °F), and which shall be measured and read in the manner prescribed in §3.141 of this part, for a period of more than 45 minutes.

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

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live animals when the outdoor air temperature falls below 10 °C. (50 °F) and such live animals shall not be subjected to surrounding air temperatures which fall below 7.2 °C. (45 °F.), and which shall be measured and read in the manner prescribed in §3.141 of this part, for a period of more than 45 minutes unless such animals are accompanied by a certificate of acclimation to lower temperatures as prescribed in §3.136(c).

(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.

[43 FR 21167, May 16, 1978, as amended at 43 FR 56217, Dec. 1, 1978. Redesignated at 44 FR 36874, July 22, 1979]

## PART 4—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE ANIMAL WELFARE ACT

### Subpart A—General

Sec.

4.1 Scope and applicability of rules of practice.

### Subpart B—Supplemental Rules of Practice

4.10 Summary action.

4.11 Stipulations.

AUTHORITY: 7 U.S.C. 2149 and 2151; 7 CFR 2.22, 2.80, and 371.7.

SOURCE: 42 FR 10959, Feb. 25, 1977, unless otherwise noted.

### Subpart A—General

#### §4.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A,

title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under section 19 of the Animal Welfare Act (7 U.S.C. 2149). In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

### Subpart B—Supplemental Rules of Practice

#### §4.10 Summary action.

(a) In any situation where the Administrator has reason to believe that any person licensed under the Act has violated or is violating any provision of the Act, or the regulations or standards issued thereunder, and he deems it warranted under the circumstances, the Administrator may suspend such person's license temporarily, for a period not to exceed 21 days, effective, except as provided in §4.10(b), upon written notification given to such person of the suspension of his license pursuant to §1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(b) In any case of actual or threatened physical harm to animals in violation of the Act, or the regulations or standards issued thereunder, by a person licensed under the Act, the Administrator may suspend such person's license temporarily, for a period not to exceed 21 days, effective upon oral or written notification, whichever is earlier. In the event of oral notification, a written confirmation thereof shall be given to such person pursuant to §1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)) as promptly as circumstances permit.

(c) The temporary suspension of a license shall be in addition to any sanction which may be imposed against said person by the Secretary pursuant to the Act after notice and opportunity for hearing.

#### §4.11 Stipulations.

(a) At any time prior to the issuance of a complaint seeking a civil penalty under the Act, the Administrator, in his discretion, may enter into a stipulation with any person in which:

(1) The Administrator gives notice of an apparent violation of the Act, or the