

(k) *Effect of a strike.* (1) If the Secretary of Labor certifies to or otherwise informs the Director of USCIS that a strike or other labor dispute involving a work stoppage of workers is in progress, and the temporary entry of a citizen of Mexico or Canada in TN nonimmigrant status may affect adversely the settlement of any labor dispute or the employment of any person who is involved in such dispute, the United States may refuse to issue an immigration document authorizing entry or employment to such alien.

(2) If the alien has already commenced employment in the United States and is participating in a strike or other labor dispute involving a work stoppage of workers, whether or not such strike or other labor dispute has been certified by the Department of Labor, or whether USCIS has been otherwise informed that such a strike or labor dispute is in progress, the alien shall not be deemed to be failing to maintain his or her status solely on account of past, present, or future participation in a strike or other labor dispute involving a work stoppage of workers, but is subject to the following terms and conditions:

(i) The alien shall remain subject to all applicable provisions of the Immigration and Nationality Act and regulations promulgated in the same manner as all other TN nonimmigrants;

(ii) The status and authorized period of stay of such an alien is not modified or extended in any way by virtue of his or her participation in a strike or other labor dispute involving a work stoppage of workers; and

(iii) Although participation by a TN nonimmigrant alien in a strike or other labor dispute involving a work stoppage of workers will not constitute a ground for removal, any alien who violates his or her status or who remains in the United States after his or her authorized period of stay has expired will be subject to removal.

(3) If there is a strike or other labor dispute involving a work stoppage of workers in progress, but such strike or other labor dispute is not certified under paragraph (k)(1) of this section, or USCIS has not otherwise been informed by the Secretary that such a strike or labor dispute is in progress, the Director, USCIS, shall not deny a petition or deny entry to an applicant for TN status based upon such strike or other labor dispute.

## PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

4. The authority citation for part 248 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1184, 1258; 8 CFR part 2.

### § 248.3 [Amended]

5. Section 248.3 is amended by removing the term “TC” and adding “TN” in its place in the first sentence of paragraph (a)(1).

Dated: May 2, 2008.

**Michael Chertoff,**

*Secretary.*

[FR Doc. E8–10343 Filed 5–8–08; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 2

[Docket No. APHIS–2006–0024]

RIN 0579–AC14

### Minimum Age Requirements for the Transport of Animals

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We propose to amend the Animal Welfare Act regulations by adding minimum age requirements for the transport in commerce of animals. The regulations currently contain such requirements for dogs and cats, but no corresponding ones for other regulated animals, despite the risks associated with the early transport of these species. We also propose to amend the regulations to allow, provided certain conditions are met, for animals to be transported without their mothers for medical treatment and for scientific research before reaching the minimum age and weaning requirement. Establishing minimum age requirements for the transport in commerce of animals and providing for the transport of animals that have not met the minimum age requirements are necessary to help ensure the humane treatment of these animals.

**DATES:** We will consider all comments that we receive on or before July 8, 2008.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0024> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment

to Docket No. APHIS–2006–0024, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0024.

**Reading Room:** You may read any comments that we receive on this docket in our reading room. The reading room is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1231; (301) 734–7833.

### SUPPLEMENTARY INFORMATION:

#### Background

The Animal Welfare Act (the Act) (7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and intermediate handlers. The Secretary of Agriculture has delegated the responsibility of enforcing the Act to the Administrator of the Animal and Plant Health Inspection Service (APHIS). The regulations established under the Act are contained in title 9 of the Code of Federal Regulations (9 CFR), chapter I, subchapter A, parts 1, 2, and 3. The regulations in 9 CFR part 2 pertain to the safe and humane handling of animals.

Section 2.130 sets forth minimum age requirements for dogs and cats to be transported in commerce. Under § 2.130, dogs and cats cannot be transported in commerce or delivered by any person unless they are 8 weeks of age and have been weaned, except if transported to a registered research facility. Currently, no such requirements exist for other regulated animals. It is our position that all animals should be afforded the same protections as provided for dogs and cats. We are currently developing standards for birds in a separate proposed rule; therefore, birds were not considered during the development of the proposed minimum age requirements in this rule.

APHIS is proposing this rule to safeguard the welfare and well-being of regulated animals and to protect those not yet safeguarded from possible stress, distress, pain, suffering and/or death during the transport process. APHIS currently requires that all domestic dogs and cats transported for regulated purposes be at least 8 weeks of age and weaned prior to transport. These same protections should be afforded all regulated species.

Longstanding experience and general veterinary medical experience and knowledge support the conclusion that shipping young animals increases the risk of illness and death in these animals. Unweaned animals and animals of many species under the age of 8 weeks are generally not yet able to eat and drink independently of their mothers and have an increased need for maternal or human intervention to provide nourishment and water frequently. By 8 weeks of age, most animals are able to digest solid foods and are no longer dependent on their mothers as their sole source of nutrition. The young of social species such as nonhuman primates need physical and social interactions for proper development, and a loss of role models and companionship from an animal of the same species can lead to lifetime behavioral and social problems.

Review of past enforcement issues with the transport of young animals involve a wide variety of issues. While we can attribute certain injuries, illnesses, or deaths of some young animals to being transported before they were weaned and/or 8 weeks of age, it is difficult to determine exactly how many such incidents have occurred because there is currently no age restriction for transport. As such, the age of the animals involved is not always documented. In addition, incidents resulting in injury, illness, or death of young, unweaned animals may be underreported, as many may involve noncommercial transport agents and vehicles.

Based on acknowledged animal care principles and physiology of infant and juvenile animals, any transport totaling more than 2 hours, especially if the animal is unweaned and not observed or handled during that time, would be stressful and possibly distressful because young animals need to be fed and may not be able to adequately control their body temperature. The risk of illness or death of the animal may increase if the animals are delayed from reaching their destinations on flights or ground transportation systems that are delayed.

In addition, it is in the animal's best interest and welfare to be provided with consistent care during the critical period from birth to weaning by responsible, knowledgeable, and experienced people. Providing animals that are only a day or weeks old and/or unweaned to unqualified persons could result in the death of the animal in many instances. While it is beyond the scope of APHIS' regulatory authority to address the issue of private owner competence, providing a weaned and older animal reduces the risks of serious complications that could otherwise occur with an animal that is unweaned and/or under the age of 8 weeks.

Therefore, we believe that it is necessary to amend the regulations to provide that animals under the age of 8 weeks and unweaned, not transported in the same enclosure as their mothers, may not be transported in commerce unless it is medically necessary for the health of the animal or the animal is destined for a registered research facility and needs to be acquired at this age to satisfy a specific research protocol approved by Institutional Animal Care and Use Committees (IACUC). While we are proposing to use 8 weeks as the minimum age standard in this document, we recognize that some species are naturally weaned at an earlier age. We welcome any comments or suggestions regarding particular species or circumstances in which it might be appropriate to have a minimum age requirement greater or less than 8 weeks.

We propose to amend § 2.130 by adding a new paragraph (a) to specify that no animal, other than birds, be delivered by any person to any carrier or intermediate handler for transportation in commerce, or be transported in commerce by any person unless the animal is with its mother or has been weaned and is at least 8 weeks of age.

We recognize that situations may arise which require the transport of underage and/or unweaned animals and would provide the licensee or registrant with some flexibility. To accomplish this, we propose to add a new paragraph (b) to provide an exception for animals that are less than 8 weeks of age and/or unweaned, to be transported to registered research facilities for use in specific IACUC-approved research protocols, provided a transportation plan is submitted to and approved by the appropriate Animal Care regional office. The transportation plan would have to be signed by the attending veterinarian and head of the animal caregiving staff and outline the reason for the transport (including the IACUC-

approved protocol involved, if applicable), transportation specifics (including, but not limited to, dates, destination, intermediate carrier or handler to be used, mode of transportation, and enclosure size and design), food and water arrangements, attendants and/or monitoring plan, contact provisions in case of medical or other care needs, and, for nonhuman primates, how the special needs of the infant will be met during transportation. Our proposed rule would also allow for one transportation plan to be submitted for multiple animals being transported from one facility if the plan can show that the needs of all of the animals have been accommodated as determined by Animal Care. As noted previously, § 2.130 currently provides for underage/unweaned dogs and cats to be moved to a registered research facility, but does not require a transportation plan. Our proposal would require an APHIS-approved transportation plan and IACUC-approved protocols for all animals. By requiring research protocols to be IACUC-approved, we would ensure that unweaned animals and/or animals under the age of 8 weeks are needed for the specific research being conducted at the facility.

Currently, § 2.33 provides that dogs and cats be given adequate medical care from the attending veterinarian, but § 2.130 does not specifically address the transportation of underage/unweaned dogs and cats for medical care. This proposed rule would amend the regulations to explicitly allow for all animals to be transported for medical treatment. Specifically, we would also provide in § 2.130, new paragraph (c), that persons may transport animals that have not been weaned and that are not at least 8 weeks of age to a licensed veterinarian for medical care. It is common practice to transport animals that have not been weaned and that are not at least 8 weeks of age for routine medical care. Therefore, we would not require a transportation plan for animals being transported for routine medical care (e.g., deworming or vaccinations) if the animal is returned to the licensed or registered facility from which it originated upon the completion of the medical care for which it was transported and no change of ownership is involved. If those conditions are not met, then a transportation plan would be required. As in the case of animals destined for registered research facilities, our proposed rule would allow for one transportation plan to be submitted for multiple animals being transported from one facility if the plan can show that the needs of all of the

animals have been accommodated as determined by Animal Care. We would not require a transportation plan in the event that the animal requires emergency medical care because we do not believe that it would be in the best interest of the animal. This would ensure that the animal receives timely care. However, to the extent possible, appropriate care should be taken to ensure the humane treatment of the animal.

The Animal Care regional office would accept requests made using e-mail and via facsimile in order to avoid delaying the transport of the animal. Requests made using e-mail or facsimile would have to include the transportation plan and the names, mailing addresses, and phone numbers of the attending veterinarian and head of the animal caregiving staff. The Animal Care regional office would contact the veterinarian and head of the animal caregiving staff to confirm their concurrence with the plan. In addition, a copy of the transportation plan signed by the attending veterinarian and head of the animal caregiving staff would have to be kept on file and made available for APHIS inspection. Written approval of the transportation plan by the APHIS regional office would have to be received before the animal(s) could be transported in commerce.

We believe a transportation plan is necessary to ensure that the licensee or registrant understands and has taken into account the issues that might arise when transporting unweaned/underage animals (e.g., transportation will not be too long, there are adequate food and water resources along the way, etc.). In the past, unanticipated events (e.g., delays, misdirected shipments) have resulted in the deaths of animals. By ensuring proper planning on the part of the licensee or registrant, the occurrence of such incidents can be minimized. We welcome comments on the practical utility of the proposed transportation plan requirement and the specific elements that would have to be addressed in the plan, including how we might enhance the quality, utility, and clarity of the information collected and how we might reduce the paperwork burden that would be associated with the proposed transportation plan requirement, including the use of performance based criteria as a substitute for specific plan requirements, or some combination of the two.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been reviewed under Executive Order 12866. The rule

has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

For this proposed rule, we have prepared an economic analysis, which is set out below. The analysis considers the potential economic effects of the rule on small entities as required by the Regulatory Flexibility Act and the potential costs and benefits of the rule as required by Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the effects of this proposed rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we are interested in determining: (1) The number of entities that transport unweaned/underage animals for scientific purposes and/or medical treatment; (2) the age at which these animals are being transported; and (3) any additional information that may help us to determine the economic impact of the proposed minimum age requirements for animals.

We propose to amend the Animal Welfare Act regulations by adding minimum age requirements for the transport in commerce of animals. The regulations currently contain such requirements for dogs and cats, but no corresponding ones for other regulated animals, despite the risks associated with the early transport of these species. We also propose to amend the regulations to allow, provided certain conditions are met, for animals to be transported without their mothers for medical treatment and for scientific research before reaching the minimum age and weaning requirement. Establishing minimum age requirements for the transport in commerce of animals and providing for the transport of animals that have not met the minimum age requirements are necessary to help ensure the humane treatment of these animals.

#### **Benefits and Costs of the Rule**

Transporting young, unweaned animals without their mothers increases the risk of them becoming sick or dying during transport. According to APHIS Animal Care, this risk may increase if the animals are delayed from reaching their destinations because of flights or ground transportation systems that are delayed. Unweaned animals and animals of many species under the age of 8 weeks are generally not yet able to

eat and drink independently of their mothers and have an increased need for maternal or human intervention to provide nourishment and water frequently.

The benefit of the proposed rule is the reduced risk of inhumane treatment of young and unweaned animals. A measure of this benefit, once the rule is enacted, would be the reduction in the frequency of illness and death of young animals while being transported. We believe that a reduction in illness and death for dogs and cats resulted when the same weaning and minimum age requirements were established for those species. As far as we know, the benefit for dogs and cats has not been documented, but general veterinary medical experience and knowledge support the conclusion that shipping young animals increases the risk of illness and death in these animals.

Costs of the proposed rule would be incurred by entities that would otherwise transport animals unweaned and under 8 weeks of age, in terms of the additional time the infant animals would need to be maintained before transport. Direct costs of feeding and caring for these very young animals until they are weaned and 8 weeks of age would be minimal; care and sustenance would be provided by their mothers unless the mother and offspring have been separated. The additional cost of feeding animals ranges from less than \$1 to \$5 a day depending upon the species of animal. For example, the cost of feeding small mammals, such as ferrets and guinea pigs, is less than a \$1 a day while the cost of feeding a chimpanzee ranges from \$2 to \$5 a day.

There are generally no additional feeding costs for animals that are nursing as compared to those that are not; however, there may be additional costs associated with transporting animals that are nursing with their mothers. The amount of space required for one adult animal would generally be sufficient for unweaned cubs, puppies, and kittens. The unweaned young of big cats or nonhuman primates may require additional space when traveling with their mothers than what is currently required in the regulations for adults of these animals when traveling alone. The incorporation of larger cages would be a one-time investment, if necessary, and we anticipate that most facilities for exotics should be able to readily reconfigure current enclosures to accommodate any additional space at little or no additional cost.

While APHIS is aware that some breeders and dealers transport unweaned animals before 8 weeks of age, the specific age at which these

animals are transported is unknown. Without this information it is difficult to quantify the impacts to those entities currently transporting animals before 8 weeks of age or unweaned. A discussion with the industry representatives indicates that most responsible breeders and dealers do not transport animals until they have been weaned or are 8 weeks of age. This proposed rule would have little, if any, economic impact on those licensees. If the licensee does not already follow the minimum age requirements as outlined in this proposed rule, there would be an increased cost of care associated with the longer holding time for the animals. This increased cost is expected to be only a small percentage of the revenue from the animal's sale.

The price of animals can vary from a few hundred dollars for a wild squirrel, to several thousand dollars for an adult monkey. For example, the price of some of the smallest animals, such as guinea pigs, is \$30, while wild cats can range from \$1,200 for single jungle cat to \$15,000 for a single white tiger. The price of a baby chimpanzee can be as high as \$50,000.<sup>1</sup>

Another area of cost associated with the proposed rule would be the higher shipping charges that would be incurred, simply because a weaned animal that is at least 8 weeks of age would be larger than an animal of the same species that is not yet weaned and less than 8 weeks old. Table 1 shows live animal air cargo shipping rates by weight of the shipment.

TABLE 1.—LIVE ANIMAL AIR CARGO SHIPPING RATES

| Weight          | Rate  | Security tax (\$0.21 per lb) |
|-----------------|-------|------------------------------|
| 0–9 lbs .....   | \$109 | \$0–\$1.89                   |
| 10–50 lbs ..... | 189   | 2.10–10.50                   |
| 51–70 lbs ..... | 239   | 10.71–14.70                  |
| 71–100 lbs .... | 299   | 14.91–21.00                  |
| 101–150 lbs ..  | 359   | 21.21–31.50                  |
| 151–200 lbs ..  | 459   | 31.71–42.00                  |

The additional shipping costs are expected to be a small percentage of the animal's sale price. We would expect the additional costs of care and feeding of animals until they reach the minimum transport age would be offset, and maybe exceeded, by the improved welfare benefits to the animals in terms of enhanced safeguarding and decreased animal morbidity and mortality that could result from the transport in commerce of young animals. We expect the benefits of safeguarding animals that are under 8 weeks of age and/or

unweaned to exceed the additional costs associated with care and feeding that would result from this rule. We welcome information that the public may offer that would allow the Agency to better evaluate benefits and costs of the proposed rule.

We note that the Captive Wildlife Safety Act (CWSA) prohibits interstate and foreign trade in exotic cats. Under this Act, it is illegal to import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, live lions, tigers, leopards, snow leopards, cheetahs, jaguars, or cougars, or any hybrid combination of any of these species, except in certain cases. Thus, exotic cats covered under CWSA generally cannot be transported interstate, irrespective of whether they have been weaned and are at least 8 weeks of age. The proposed rule would still apply for circuses, zoos, wildlife rehabilitators and some other licensed facilities that are exempt from the CWSA regulations.

#### Assessment of Alternatives

One alternative would be to make no changes to the current regulations. However, transporting animals before they are 8 weeks of age or weaned increases the risk of those animals becoming sick or dying. In addition, we believe that certain circumstances may require the transport of animals before reaching the minimum age requirement, such as, transport to a medical facility for medical treatment. Such exceptions would make it necessary to ensure these animals are also transported safely. Therefore, doing nothing is not a viable option to safeguarding animals in commerce.

Another alternative would be to allow the transport of weaned animals without an 8-week minimum age requirement. This would allow smaller animals that mature faster than larger animals to be transported before reaching 8 weeks of age. This alternative would also protect larger animals from being transported before they are weaned, as it is possible that some larger species of animals will not be weaned by 8 weeks of age. The problem with this alternative is that brokers and dealers could falsely state that the animal has been weaned in order to allow them to transport the animal prematurely.

A third alternative would be to implement a two-tiered system. The system would compensate for smaller animals that are weaned before 8 weeks of age compared to larger animals that require more time to mature. Such a system could use adult weight as the determining factor for each tier and set an appropriate weight limit (e.g., 15

pounds). In the first tier, animals weighing less than 15 pounds could be transported when the animal is 4 weeks of age and weaned. In the second tier, animals larger than 15 pounds would need to be 8 weeks of age and weaned before transport. This alternative would benefit the entities that broker and breed small pets while continuing to safeguard the larger animals. However, APHIS believes this alternative could cause problems when classifying the animals under each tier. Each animal's life cycle is different and weight alone is not a good measure of when the animal will become weaned and ready for transport. We welcome public and industry comment on the potential impacts of a two-tiered system for classifying animals for transport, including specific criteria we should consider when classifying animals into tiers and timeframes for weaning that can be applied to each tier.

For these reasons, we have determined that proposing minimum age and weaning requirements would best safeguard the health and welfare of larger animals. This proposed rule would also allow for the transport of animals to research facilities before meeting the minimum age requirement, provided that a transportation plan is submitted to and approved by the Animal Care regional office. We believe that allowing underage and unweaned research animals to be transported without a transportation plan subjects these animals to unnecessary risks, and that the plan is necessary to assure that these animals arrive safely at their destinations. This proposed rule would also allow for animals to be transported to a licensed veterinarian for medical care before meeting the minimum age requirement.

#### Impact on Small Entities

The North American Industry Classification System (NAICS) code of particular interest is 424990 (Other Miscellaneous Nondurable Goods Merchant Wholesalers), for which the small-entity size standard is 100 or fewer employees. This industry includes animal dealers and importers. According to APHIS Animal Care, there are approximately 5,060 licensed animal dealers. The proposed rule may also affect entities classified within NAICS codes 712130 (Zoos and Botanical Gardens) and 712190 (Nature Parks and Other Similar Institutions). A small enterprise classified within either of these codes is one having \$6.5 million or less in annual receipts. Also of interest are businesses that breed animals, which fall within NAICS code 112990 (All Other Animal Production)

<sup>1</sup> <http://www.monkeybreeder.com>.

and for which the small-entity definition is \$750,000 or less in annual receipts. For facilities that deal in research with animals, the NAICS code is 541710 (Research and Development in the Physical, Engineering, and Life Sciences), and the small-entity definition is 500 or fewer employees. While only a fraction of the firms in each industry code group are expected to be directly affected by the proposed rule, we note that the majority of entities in each of these industry groups are small.<sup>2</sup>

According to APHIS Animal Care, nearly all of the 5,060 animal dealers have annual receipts of less than \$750,000, which classifies them as small entities under Small Business Administration criteria. APHIS does not have specific information regarding the 5,060 licensed animal dealers; however, we would expect that some would be considered small entities. It is unknown how many of these licensed animal dealers transport underage and unweaned animals. It is also unknown at what age these animals are being transported. Information is currently not available to identify the dog and cat dealers who transport underage and unweaned animals to approved research facilities. We welcome information that the public may offer that would allow the Agency to better determine the impact of the proposed 8-week minimum age requirement. Specifically, we welcome public comment on the number of establishments that could be affected, particularly ones classified within the industry groups identified in this analysis; the frequency with which they transport unweaned animals under 8 weeks of age, without their mothers; and the delays and associated costs that small entities may incur because of the proposed rule.

This proposed rule contains certain reporting and recordkeeping requirements (See "Paperwork Reduction Act" below).

With respect to exotic cats, the proposed rule is superseded by the Captive Wildlife Safety Act regulations (50 CFR Part 14, Subpart K), which prohibit the interstate transport of these animals other than by certain licensed facilities such as circuses, zoos, and wildlife rehabilitators. The licensed

facilities would not be exempt from the proposed rule.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

#### Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2006-0024. Please send a copy of your comments to: (1) Docket No. APHIS-2006-0024, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

To protect the health and well-being of young animals, we are proposing to require animals to be at least 8 weeks of age and weaned before they can be shipped in commerce. Also, a transportation plan would be required for transport to research facilities or for medical treatment for all animals that are less than 8 weeks of age and have been weaned. The transportation plan is required to be written, signed by the attending veterinarian and head of the animal caregiving staff, and submitted to APHIS for approval prior to the shipment. The plan must include the details of the transport and the justification for the transport.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

*Respondents:* Animal dealers and breeders who ship or transport animals.

*Estimated annual number of respondents:* 1,000.

*Estimated annual number of responses per respondent:* 4.

*Estimated annual number of responses:* 4,000.

*Estimated total annual burden on respondents:* 2,000 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### List of Subjects in 9 CFR Part 2

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

<sup>2</sup>Based on data provided by the U.S. Census Bureau, Statistics of U.S. Businesses, to SBA, Office of Advocacy, small operations comprise more than 90 percent of animal dealers and/or independent importers, more than 70 percent of zoos and botanical gardens, more than 80 percent of nature parks and other similar institutions, and more than 90 percent of research facilities that could potentially handle the animals of concern.

Accordingly, we propose to amend 9 CFR part 2 as follows:

## PART 2—REGULATIONS

1. The authority citation for part 2 continues to read as follows:

**Authority:** 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

2. Section 2.130 is revised to read as follows:

### § 2.130 Minimum age requirements.

(a) Unless being transported in the same enclosure as its mother or documented surrogate mother, no animal, other than birds, except as provided in paragraphs (b) and (c) of this section, shall be delivered by any person to any carrier or intermediate handler for transportation in commerce, or be transported in commerce by any person unless such animal has been weaned and is at least 8 weeks of age.

(b)(1) Persons wishing to transport an animal that has not been weaned and that is not at least 8 weeks of age without its mother or documented surrogate mother to a registered research facility for a specific protocol approved by the Institutional Animal Care and Use Committees (IACUC) must obtain prior written approval by the appropriate Animal Care regional office by submitting, in writing, a transportation plan signed by the attending veterinarian and head of the animal caregiving staff outlining the reason for the transport (including the IACUC-approved protocol involved, if applicable), transportation specifics (including, but not limited to, dates, destination, intermediate carrier or handler to be used, mode of transportation, and enclosure size and design), food and water arrangements, attendants and/or monitoring plan, contact provisions in case of medical or other care needs, and, for nonhuman primates, how the special needs of the infant will be met during transportation (in support of the requirements of § 3.81).

(2) One transportation plan may be submitted for multiple animals being transported from one facility if the plan can show that the needs of all of the animals have been accommodated as determined by Animal Care.

(3) Transportation plans submitted via e-mail or facsimile must also include the names, mailing addresses, and phone numbers of the attending veterinarian and head of the animal caregiving staff. Those submitting plans via e-mail or facsimile must also keep on file a copy of the transportation plan that is signed by the attending veterinarian and head of the animal

caregiving staff and make the plan available to Animal Care upon request.

(c)(1) Persons may transport an animal that has not been weaned and that is not at least 8 weeks of age without its mother or documented surrogate mother to a licensed veterinarian for routine medical care, provided the animal is returned to the licensed or registered facility from which it originated upon the completion of the medical care for which it was transported and no change of ownership is involved. If those conditions are not met, then persons wishing to transport animals that have not been weaned and that are not at least 8 weeks of age for routine medical care must obtain approval from the appropriate Animal Care regional office by submitting a transportation plan in accordance with paragraph (b) of this section.

(2) One transportation plan may be submitted for multiple animals being transported from one facility if the plan can show that the needs of all of the animals have been accommodated as determined by Animal Care.

(3) Persons may transport animals that have not been weaned and that are not at least 8 weeks of age to a licensed veterinarian for emergency medical care without a transportation plan.

Done in Washington, DC, this 5th day of May 2008.

**Bruce Knight,**

*Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. E8–10400 Filed 5–8–08; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

[NRC–2008–0237]

### Regulation of Advanced Nuclear Power Plants; Draft Statement of Policy

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Issuance of draft policy statement and notice of opportunity for public comment.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is considering adopting a statement of policy to improve the licensing environment for advanced nuclear power reactors to minimize complexity and uncertainty in the regulatory process. This statement would provide the Commission's policy regarding the review of, and desired characteristics associated with, advanced reactors. This policy

statement would be the second revision of the policy statement titled "Regulation of Advanced Nuclear Power Plants; Statement of Policy." The purpose of this revision is to update the Commission's policy statement on advanced reactors to integrate the Commission's expectations for security and preparedness with the current expectations for safety. This draft policy statement is being issued for public comment.

**DATES:** Comments on this document should be submitted by July 8, 2008. Comments received after that date will be considered to the extent practical. To ensure efficient and complete comment resolution, comments should include references to the section, page, and line numbers of the document to which the comment applies, if possible.

**ADDRESSES:** You may submit comments by any one of the following methods. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

*Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC–2008–0237]. Address questions about NRC dockets to Carol Gallagher 301–415–5905, e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

*Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

*E-mail comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1966.

*Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone 301–415–1966.)

*Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

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