

adding a new identical sentence at the end of each paragraph to read as set forth below:

(a)* ** The ambient temperature in the facility must never rise above 90 °F (32.2 °C) when dogs and cats are present.

* * * * *

§ 3.6 [Amended]

5. Section 3.6 would be amended by removing paragraph (c)(2), and by redesignating paragraphs (c)(3) and (c)(4) as paragraphs (c)(2) and (c)(3), respectively.

6. In § 3.15, paragraphs (d) and (e) would be revised to read as follows:

§ 3.15 Primary conveyances (motor vehicle, rail, air, and marine).

* * * * *

(d) During air transportation, dogs and cats must be held in cargo areas that are heated and cooled as necessary to maintain an ambient temperature that ensures the health and well-being of the dogs or cats. The ambient temperature in the cargo areas must never rise above 90 °F (32.2 °C) when dogs or cats are present. The cargo areas must be pressurized when the primary conveyance used for air transportation is not on the ground, unless flying under 8,000 ft. Dogs and cats must have adequate air for breathing at all times when being transported.

(e) During surface transportation, the ambient temperature within any animal cargo space containing live dogs or cats must never rise above 90 °F (32.2 °C). Moreover, auxiliary ventilation, such as fans, blowers, or air conditioning, must be used when the ambient temperature within the animal cargo space reaches 85 °F (29.5 °C). The ambient temperature must not exceed 85 °F (29.5 °C) for more than 4 consecutive hours, nor fall below 45 °F (7.2 °C) for more than four consecutive hours.

* * * * *

7. In § 3.18, paragraph (d) would be revised to read as follows:

§ 3.18 Terminal facilities.

* * * * *

(d) *Temperature.* The ambient temperature in an animal holding area containing live dogs or cats must not fall below 45 °F (7.2 °C) or rise above 85 °F (29.5 °C) for more than 4 consecutive hours at any time dogs or cats are present. The ambient temperature in the animal holding area must never rise above 90 °F (32.2 °C) when dogs or cats are present.

* * * * *

Done in Washington, DC, this 27th day of June 1996.

Terry L. Medley

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-16871 Filed 7-1-96; 8:45 am]

BILLING CODE 3410-34-P

9 CFR Part 3

[Docket No. 95-100-1]

RIN 0579-AA78

Humane Treatment of Dogs and Cats; Wire Flooring

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the requirements for the humane treatment of dogs and cats under the Animal Welfare Act to require that if the floor of a primary enclosure for dogs or cats is constructed of wire, the wire must be coated with a material such as plastic or fiberglass. Coated wire has a larger diameter than bare wire, and is therefore more comfortable on animals' feet. Coated wire is also not susceptible to rust, improving the floor's structural strength and making it easier to clean and sanitize than bare wire flooring. We believe that requiring coated wire to be used for wire floors in primary enclosures would improve comfort for dogs and cats housed in wire-floored enclosures, would help eliminate foot injuries, and would ensure that wire flooring for dogs and cats is clean and sanitary.

DATES: Consideration will be given only to comments received on or before September 3, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95-100-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 95-100-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Smith, Staff Animal Health Technician, REAC, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737-1234, (301) 734-4972.

SUPPLEMENTARY INFORMATION:

Background

Under the Animal Welfare Act (the Act)(7 U.S.C. 2131 *et seq.*) the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, and carriers and intermediate handlers. Regulations established under the Act are contained in 9 CFR parts 1, 2, and 3. Subpart A of 9 CFR part 3 (referred to below as the regulations) contains specific standards for the humane handling, care, treatment, and transportation of dogs and cats.

Recently, the Animal and Plant Health Inspection Service (APHIS) hosted public meetings in Kansas City and St. Louis, MO, and in Washington, DC, to gather information on the regulations in 9 CFR part 3, subpart A, that apply to the care of dogs and cats in the commercial pet trade. People attending the meetings included representatives of animal protection organizations and members of affected industries, such as dealers, research facilities, and commercial animal transporters.

Each meeting was divided into four workshops covering specific topic areas. One of the workshop topic areas concerned sanitation, materials, flooring, and construction of primary enclosures. APHIS has considered all of the recommendations and opinions expressed by participants of this workshop at each of the meetings, as well as APHIS' own experience in enforcing the Act, in developing this proposal on flooring in primary enclosures. There were many recommendations expressed in the workshops on issues other than flooring in primary enclosures. APHIS is continuing to review and analyze all the recommendations received, and will initiate additional rulemaking for any changes deemed appropriate.

Currently, the regulations require that primary enclosures for dogs and cats must, among other things, enable all surfaces in contact with the animals to be readily cleaned and sanitized, or be replaceable when worn or soiled. Primary enclosures must also "(h)ave floors that are constructed in a manner that protects the dogs' and cats' feet and legs from injury, and that, if of mesh or slatted construction, do not allow the dogs' and cats' feet to pass through any openings in the floor. If the floor of the primary enclosure is constructed of wire, a solid resting surface or surfaces that, in the aggregate, are large enough

to hold all the occupants of the primary enclosure at the same time comfortably must be provided."

Wire floors are preferable to solid floors for many dealers, breeders, researchers, and exhibitors because waste material can pass through the openings in the floor, making the enclosures easier to keep clean. In many primary enclosures that have wire floors, the floors are constructed of bare wire. It is our experience in enforcing the Act, however, that bare wire flooring is inadequate in providing for the comfort and well-being of dogs and cats.

Bare wire can be uncomfortable on dogs' and cats' feet because the wire has a narrow diameter, providing inadequate support and potentially causing lesions and sores on the animals' feet. Bare wire is also prone to rust, which not only affects the structural strength of the primary enclosure, but can cause foot injuries because rusty wire is abrasive and because dogs and cats may be cut or poked by broken, rusty pieces of wire. Rusted wire is also difficult to clean and sanitize thoroughly, because the rust makes the wire semi-porous in places, allowing bacteria and viruses to remain even after thorough cleaning. Further, bare wire flooring often sags or bends between structural supports, creating an uncomfortable resting surface for the animals.

Wire that has been coated with plastic, fiberglass, or similar material has a larger diameter than bare wire, so that floors constructed from coated wire provide better support and are more comfortable on dogs' and cats' feet. Coated wire also eliminates the problem of rusting, making coated wire floors easier to clean and maintain, and less likely to cause foot injuries, than bare wire floors. In addition, the coating on the wire adds strength, making it less likely that coated wire would sag or bend between structural supports.

For these reasons, we are proposing to prohibit bare wire in the construction of primary floors and to require that if the floor of a primary enclosure for dogs or cats is constructed of wire, the wire must be coated with a material, such as plastic or fiberglass, that can be cleaned and sanitized readily. We are not proposing to limit the material with which the wire must be coated to only plastic or fiberglass because there is a variety of materials currently on the market that would be adequate, and new and better materials may be introduced in the future. Also, depending on the size of the openings in the flooring, and the size and weight of a particular animal, different diameters of coated wire may be adequate to provide

increased comfort for the animals. Some wires are sold, however, that are coated with a very thin layer of material, which would not provide any increased comfort over bare wire. For this reason, we propose to further require that the coated wire must have a well-rounded surface and must be of a large enough diameter so that it is comfortable on the animals' feet and protects the animals' feet from injury. Also, coated wire floors would have to be strong enough so that the floor does not sag or bend between structural supports.

We realize that replacing existing bare wire flooring could be a substantial cost, depending on the size of the facility. Coated wire flooring is significantly more expensive than bare wire. To ease the burden of complying with the new requirement, we are proposing that the final rule would have two effective dates: one 30 days after publication of the final rule and one 2 years after publication of the final rule. Any new construction done on and after 30 days after publication of the final rule would have to be in compliance with the new flooring requirements. Also, on and after 30 days after publication of the final rule, any bare wire floors in existing primary enclosures that are replaced because of wear would have to be replaced in compliance with the new flooring requirements. On and after 2 years from the effective date of a final rule, all licensees and registrants would have to comply with the new requirements. Wire floors usually wear out from rust and general usage within a 2 year time-frame, so we believe that almost all existing bare wire floors would be replaced by coated wire before the 2 year grace period expired. The delayed effective date would give breeders, dealers, researchers, and exhibitors the opportunity to retain their existing bare wire floors until they wear out under normal usage. The 2 year delay would also give time to prepare for the additional cost of replacing existing floors.

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.

In accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, which is set out below, regarding the impact of this rule on small entities. However, we do not currently have all the data necessary for a comprehensive analysis of the effects

of this rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we are interested in determining how many licensees and registrants would have to replace bare wire flooring as a result of this proposed rule and the average number of animals these licensees house, to help us better determine the economic impact of this proposal.

Under the Animal Welfare Act (7 U.S.C. 2131 *et seq.*) the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, and carriers and intermediate handlers.

This proposed rule would require that if the floor of a primary enclosure for dogs or cats is constructed of wire, the wire must be coated with a material, such as plastic or fiberglass, that can be cleaned and sanitized readily, is comfortable on the animals' feet, and protects the animals' feet from injury. The coated wire must also be strong enough so that the floor does not sag or bend between structural supports. We believe that requiring coated wire floors in primary enclosures would improve comfort for dogs and cats housed in wire-floored enclosures, would help eliminate foot injuries, and would ensure that wire flooring for dogs and cats is clean and sanitary.

This proposed rule would affect all breeders, dealers, research facilities, and exhibitors of dogs and cats that are licensed or registered under the Animal Welfare Act and that house their animals in primary enclosures with bare wire floors. There are currently 4,325 licensed breeders and dealers, 2,339 licensed exhibitors, and 2,688 registered research facilities and sites. We do not know how many of these licensees and registrants house dogs and cats. Further, we cannot determine the exact number of licensees and registrants that house their dogs and cats on wire flooring or the total number of animals involved, but it is known that a significant percentage of licensees and registrants do use wire flooring in primary enclosures because it is easier to maintain than solid flooring. Most wire floored enclosures are constructed with bare wire. Some licensees, however, have converted existing bare wire flooring to coated wire, and coated wire flooring is currently the preferred material for new construction.

The market price of both bare and coated wire varies depending on the quality and diameter width of the material. Floor space requirements for primary enclosures also vary depending

on the size of the animals. Large dogs on average require about 13 square feet of floor space, while small dogs require about 6.5 square feet. Bare wire of the type most often used currently sells for about \$1.50 per square foot. Coated wire that meets the other standards for use under the Animal Welfare Act sells for between \$2.25 and \$5.00 per square foot. Requiring the use of coated wire could result in increased costs for replacement of between 60 and 233 percent. Thus, replacing bare wire with coated wire could result in additional expenditures ranging from \$4.87 to \$22.75 for each small dog housed and from \$13.00 to \$45.50 for each large dog. We estimate that it would take approximately 1 to 1½ hours per cage to replace bare wire flooring with coated wire. Labor could run from \$5.00 to \$10.00 per hour.

The total cost to an individual licensee or registrant would depend on the number of animals being housed. However, because coated wire floors do not rust, they need to be replaced far less frequently than bare wire floors. Therefore, the initial cost of replacing the floors would be made up, in part, over a period of time, because the coated wire floor will provide longer use.

To ease the burden of complying with the new requirement, we are proposing that the final rule would have two effective dates: one 30 days after publication of the final rule and one 2 years after publication of the final rule. Any new construction done on and after 30 days after publication of the final rule would have to be in compliance with the new flooring requirements. Also, on and after 30 days after publication of the final rule, any bare wire floors in existing primary enclosures that are replaced because of wear would have to be replaced in compliance with the new flooring requirements. On and after 2 years from the effective date of a final rule, all licensees and registrants would have to comply with the new requirements. Wire floors usually wear out from rust and general usage within a 2 year time-frame, so we believe that almost all existing bare wire floors would be replaced by coated wire before the 2 year grace period expired. The delayed effective date would give breeders, dealers, researchers, and exhibitors the opportunity to retain their existing bare wire floors until they wear out under normal usage. The 2 year delay would also give time to prepare for the additional cost of replacing existing floors.

The alternative to this proposed rule would be to make no change to the

flooring requirements for primary enclosures. After consideration, we rejected this alternative because we believe that bare wire floors are inadequate to provide for the comfort and well-being of dogs and cats.

This proposed rule contains no paperwork or recordkeeping requirements.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.028 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 12778

This proposed rule has been reviewed under Executive Order 12778, 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

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 3

Animal welfare, Marine mammals, Pets, Reporting and recordkeeping requirements, Research, Transportation.

Accordingly, 9 CFR part 3 would be amended as follows:

PART 3—STANDARDS

1. The authority citation for part 3 would continue to read as follows:

Authority: 7 U.S.C. 2131–2156; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 3.6, a new paragraph (a)(2)(xii) would be added to read as follows:

§ 3.6 Primary enclosures.

(a) *General requirements.* * * *

(2) * * *

(xii) *The following requirements are effective for primary enclosures constructed on or after [insert date 30 days after publication of final rule] and for bare wire floors replaced on or after [insert date 30 days after publication of final rule]. On or after [insert date 2 years after publication of final rule] the following requirements are effective for all primary enclosures.* The floor of the primary enclosure may not be

constructed of bare wire. If the floor of the primary enclosure is constructed of wire, the wire must be coated with a material, such as plastic or fiberglass, that can be cleaned and sanitized readily. The coated wire must have a well-rounded surface and must be of a large enough diameter so that it is comfortable on the animals' feet and protects the animals' feet from injury. Coated wire floors must be strong enough so that the floor does not sag or bend between structural supports.

Done in Washington, DC, this 27th day of June 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–16872 Filed 7–1–96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AAL–4]

Proposed Revision of Class E Airspace; Ketchikan, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action revises the Class E airspace at Ketchikan, AK. The development of the Global Positioning System (GPS) instrument approach (GPS-B) to Ketchikan International Airport, AK, and the establishment of the Special Visual Flight Rules (VFR) Seaplane holding area at Ward Cove have made this action necessary. The areas would be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations and provide Special VFR seaplane holding at Ketchikan, AK.

DATES: Comments must be received on or before August 23, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AAL–530, Docket No. 95–AAL–4, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, System Management Branch, Air Traffic Division, at the address shown above.